

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>MARTIN O. LONG,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>CASE NO. 2:06CV816-MHT</b>
	)	
<b>STATE FARM FIRE AND CASUALTY COMPANY,</b>	)	
	)	
<b>Defendant.</b>	)	

**EVIDENTIARY SUBMISSION IN SUPPORT OF  
PLAINTIFF'S BRIEF IN OPPOSITION TO DEFENDANT'S  
MOTIONS FOR SUMMARY JUDGMENT**

Comes now the Plaintiff in the above-styled cause and files the following evidentiary documents in support of his Brief in Opposition to Defendant's Motions for Summary Judgment:

1. Affidavit of Martin Long.
2. Excerpts of State Farm's Claim File and Claim Manuals Produced in this case:  
  
SF1 00002-33; SF1 00059-68; SF1 00122-124; SF1 00132; SF1 00133; SF1  
00146-147; SF1 00167-168; SF1 00193-195; SF1 00231; SF1 00227-233; SF1  
00248-254 and 00257; SF1 00287; SF1 00307 and 00311; SF1 00344; SF1  
000374-76; SF1 00620; SF1 00689; SF1 00749-751; SF1 00757-759; SF1 0001-  
4-P
3. Plaintiff's Answers to Interrogatories
4. Miniscript of deposition of Valarie Temple
5. Miniscript of deposition of Felicia Flowers

6. Miniscript of deposition of Martin Long
7. Miniscript of deposition of Todd Smith
8. Miniscript of deposition of Ricky Ware
9. Miniscript of deposition of Tony Nix
10. Affidavit of Robert Sharp (unsigned)
11. Miniscript of deposition of Donal O'Shaughnessy (will be provided when received from court reporter)
12. Answer of State Farm

Respectfully submitted,

s/F. Tucker Burge  
F. TUCKER BURGE  
BURGE & BURGE  
2001 Park Place #850  
Birmingham, AL 35203  
(205)251-9000  
(205)323-0512 (Facsimile)

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 31<sup>st</sup> day of May, 2007, electronically filed the above and foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to James B. Newman, Esq., Helmsing, Leach, Herlong, Newman & Rouse, Post Office Box 2767, Mobile, AL 36652.

s/ F. TUCKER BURGE  
OF COUNSEL

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

MARTIN O. LONG,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. 2:06CV816-MHT
	)	
STATE FARM FIRE AND CASUALTY	)	
COMPANY,	)	
	)	
Defendant.	)	

STATE OF ALABAMA

JEFFERSON COUNTY

**AFFIDAVIT OF MARTIN LONG**

Before me, the undersigned for said County and in said State, personally appeared Martin Long, who is known to me and who, after first being duly sworn, deposes and says:

My name is Martin Long. I am over the age of 21 and have personal knowledge of the facts contained in this affidavit. I am the Plaintiff in the above-styled action and understand that this affidavit is being submitted to the Court in opposition to State Farm's Motion for Summary Judgment.

On February 4, 2005, I purchased a 2000 Chevrolet Corvette from City Auto Sales in Hueytown, Alabama. I paid for the car in full. The purchase price I paid was \$25,000.00.

I arranged for insurance coverage on the Corvette from State Farm Fire & Casualty Insurance Company. In exchange for my payment of a \$637.32 premium, State Farm issued an automobile policy to me bearing policy number 88 6750-B04-01. This policy provided full coverage on the Corvette for a policy period of February 4 to August 4, 2005.

I had a longstanding desire to own a Corvette like the one I bought from City Auto Sales and insured with State Farm. I spent hours on the internet searching for just the right one.

On February 18, 2005, I drove my Corvette from Montgomery to Lithonia, Georgia, to spend the weekend at the Country Inn Suites with Valarie Ware Temple. I parked the Corvette near the hotel entrance that night, in plain view of a hotel security camera. The Corvette was not in the parking lot the next morning. I do not know who took my car. I had no involvement in the theft of my car. I did not want to lose my car. I had wanted a Corvette for a long time and in fact have gotten another once since losing this one to theft.

I made a claim to State Farm in which I sought to recover for the fair market value of my car under my automobile policy. State Farm assigned Claim No. 01-6596-564 to my claim for the fair market value of my Corvette. I did not make any claims under my automobile policy for any personal property that was in the car at the time that it was stolen; instead, I made those claims under a manufacturer's homeowner's policy for which I paid a separate premium to State Farm. I made my claim for the personal property items under the manufacturer's home policy at the direction of State Farm employees.

My car was in good working order before it was stolen. The brakes worked perfectly. The transmission shifted smoothly and without any difficulty. Before I actually saw the damage to my Corvette, a State Farm claim representative had called me and described the extensive damage to me. When I first saw my car after it was stolen, the top was missing, the seats were gone, the passenger window was broken, the tires and rims that I had on the car had been replaced with cheaper, alternate brand tires and rims, the wheel lug nuts were missing and others were loose, air conditioner vents were broken and parts of the dash and console had been removed. The car had no brakes and was not driveable in the condition that it was in after it was recovered.

I do not know whether the alarm system on the car ever worked. I never tested the alarm system before it was stolen.

I have taken measurements of the parking lot where my car was stolen. There was over 24 feet of room between the parking spaces and the planter curb line. This distance and the tape measure verifying this measurement are reflected in the photographs attached to this affidavit. In addition, I am attaching photographs that show that the cars in the parking lot are clearly visible from the street.

I was essentially debt free at the time my car was stolen. From the proceeds I received from the personal injury settlement, I had paid off all of my credit card bills, my wife's car loan and her student loans. I owned the Corvette free and clear of any liens. I could have sold it easily if I wanted money but I did not want to sell the car and did not need to sell the car. I had already been awarded a monthly disability that paid me more than my living expenses. I receive \$4,200.00 per month for my disability. Before State Farm denied my claim, I had provided it with documentation showing that I was debt free and had a fair/good credit score.



I have never been convicted of a crime. I have never been involved in the theft of a car. I do not know who stole my Corvette from the hotel parking lot, the precise time when it was taken or how it was taken. I just know that I had no part in the theft and had no reason to want my car stolen.

Martin O. Long  
MARTIN LONG

Sworn to and subscribed before me this

30<sup>th</sup> day of May, 2007.

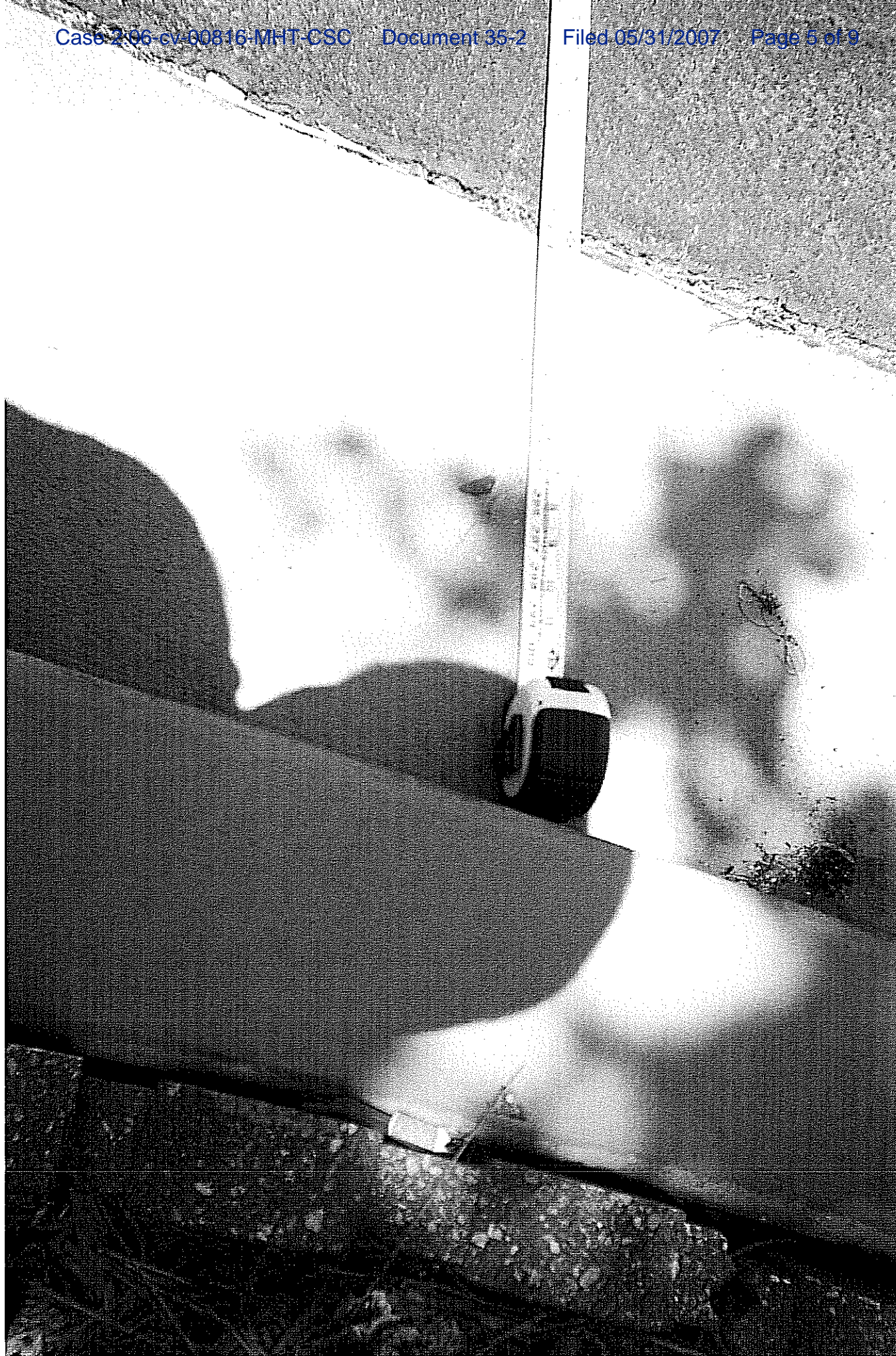
Jane H. Blalock  
Notary Public

My Commission Expires: 5/11/2010

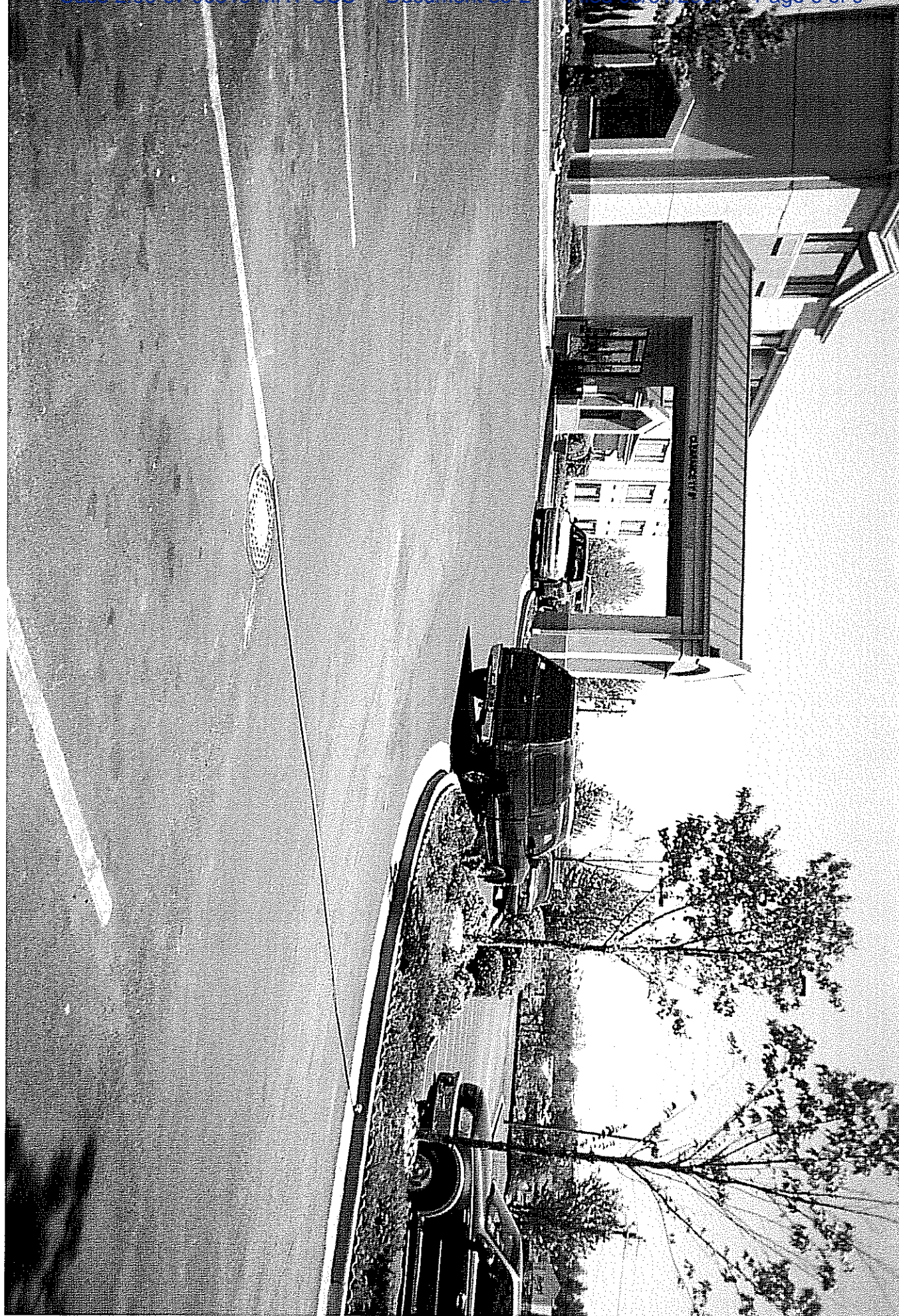




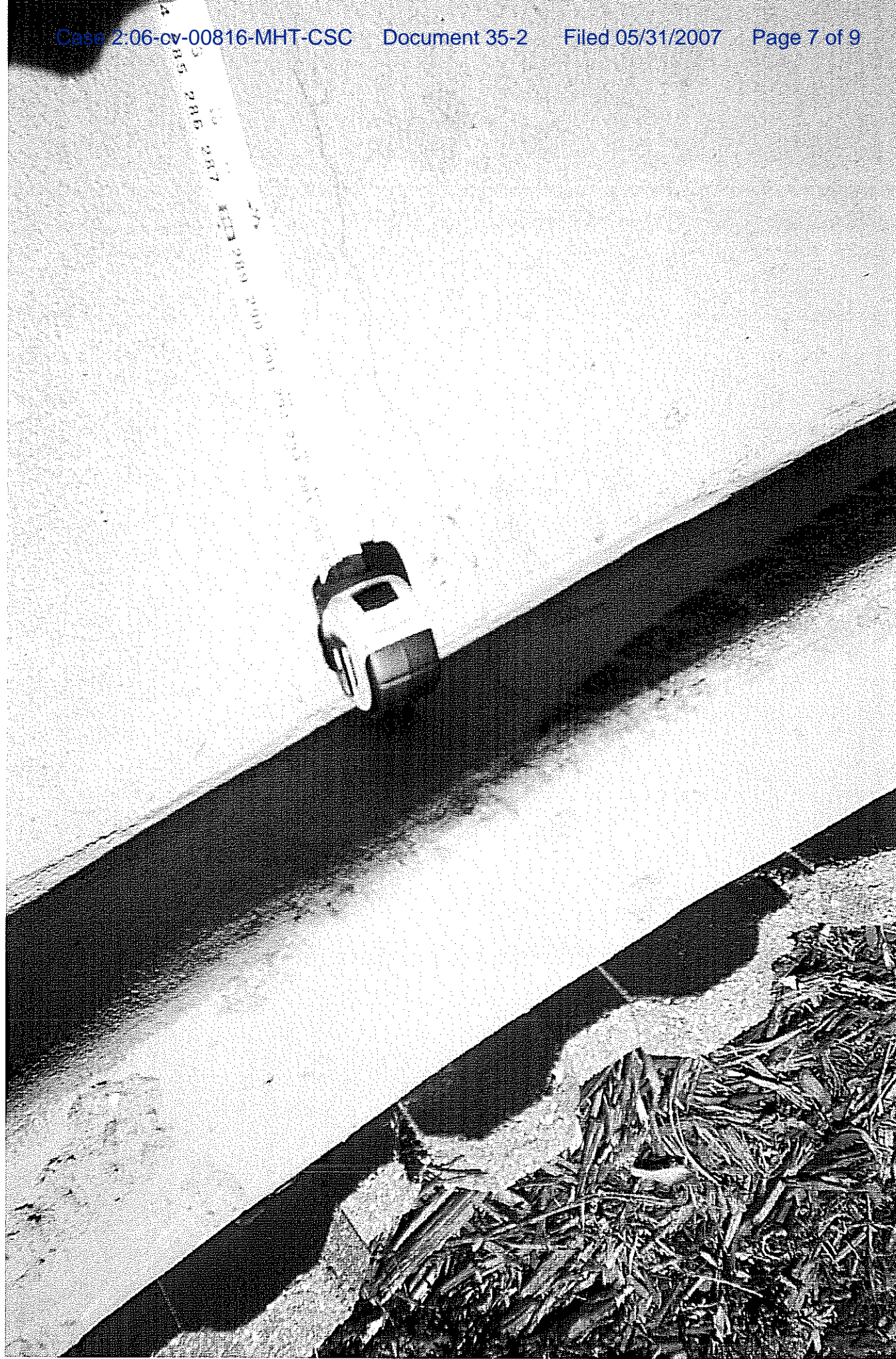




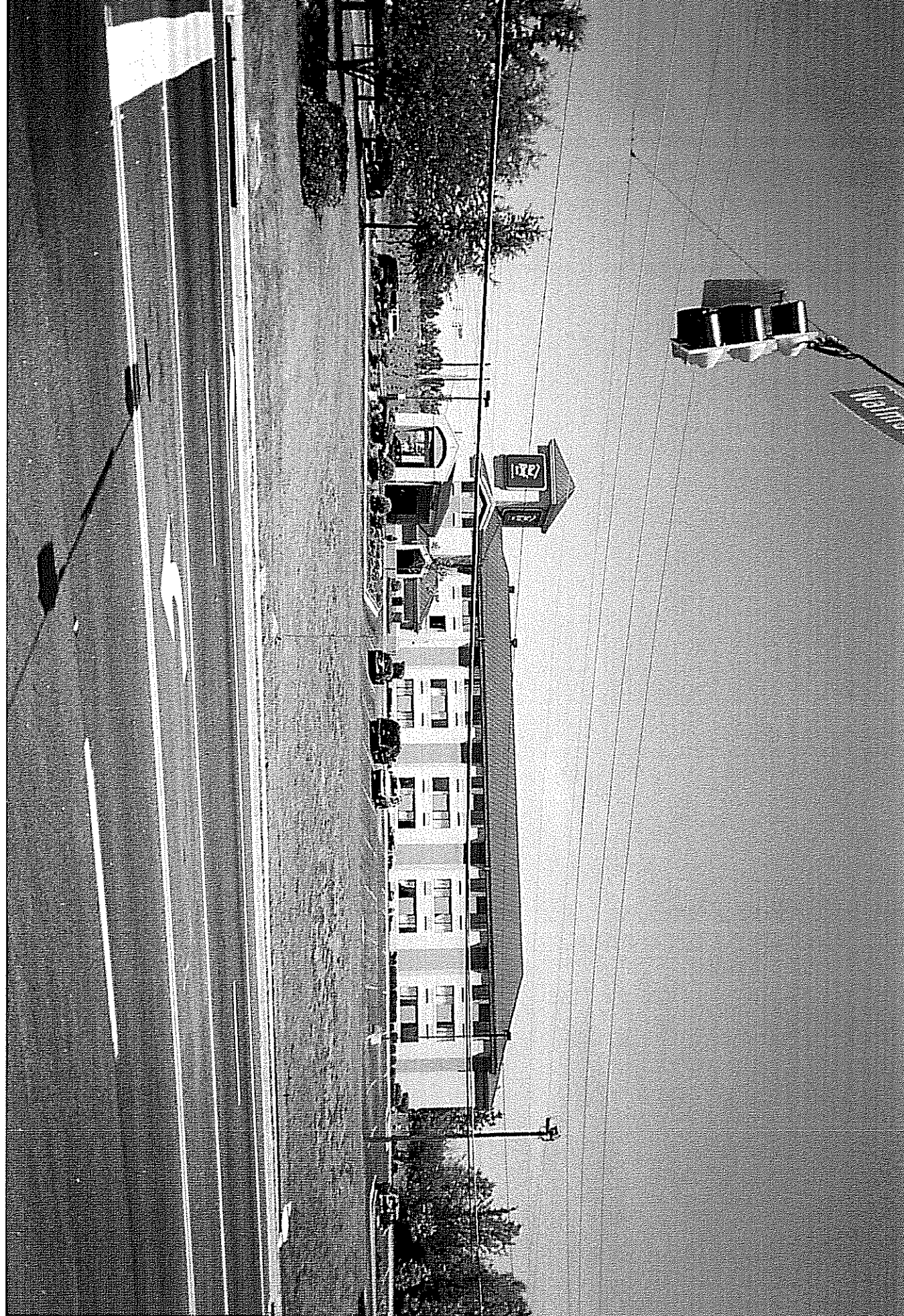




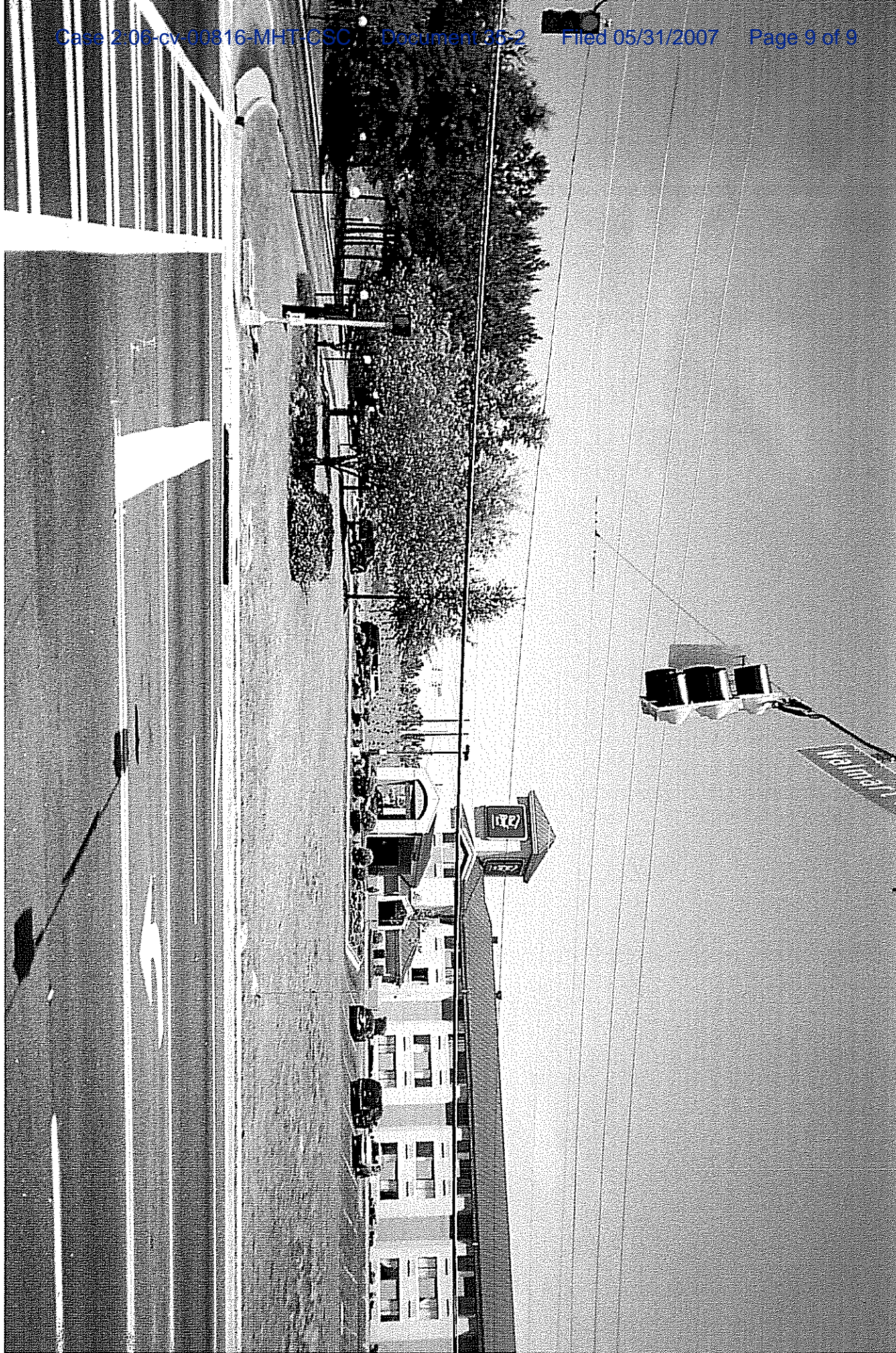














ACM - Preface

Page 1 of 1

## Preface

ACM  
January 5, 2005

The purpose of the Auto Claim Manual is to communicate claim policy and outline guidelines involving claim practices and procedures for use by the State Farm Mutual Automobile Insurance Company claim organization. The manual is for the sole use of State Farm® claim employees in the performance of their duties. Distribution or copying of any part of this manual without the express permission of State Farm is prohibited.

As preparation of an auto claim manual for each individual state is not practicable, this claim manual is intended to provide guidelines for use in all states and Canada. However, some of the information and guidelines may not be applicable in each state because of variations in interpretation of policy language and/or local law.

State Farm requires that all claims be handled in compliance with the various laws and regulations of each state. This manual is not intended to abrogate any specific state requirement.

The Auto Claim Manual is intended to provide consistency in the claim handling process. However, as it is not possible to describe or anticipate every conceivable factual circumstance involved in automobile bodily injury and property damage claims, every claim must be handled on an individual basis.

STATE FARM'S CLAIM PHILOSOPHY IS TO PAY WHAT WE OWE – promptly, courteously, and efficiently. To accomplish this, each claim, large or small, should be handled only on its own merits, in accordance with the facts of the loss, the law, and applicable coverage – not on the basis of a person's race, age, religion, sex, national origin, or any other irrelevant consideration. Our communications to policyholders, claimants, and others with whom we do business, as well as our internal communications, should clearly and consistently demonstrate this claim philosophy.

State Farm's claim department has an obligation to its insureds to fairly and promptly investigate and then appropriately negotiate, settle, or defend covered claims for damages.

This manual shall be made available to all State Farm claim handlers and management engaged in the disposition of claims involving the automobile policy contract. Any claim handler questions that arise in the application of these guidelines and procedures to individual claims should be discussed with the employee's immediate supervisor.

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ClaimsNet|Auto Claims|CA&P|Catastrophe|C.R.A.S.H.|Estimatics|Fire Claims|Glass Central  
MMG|P&C Claims|Replacement Service|S. I. U.|Subrogation|Subrogation|T.I.P.P.|Work Comp

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LONG/STATE FARM  
SF1 0001 -P



LONG, MARTIN O. V. SFFCC

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## Preface

ACM  
January 11, 2006

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Our Commitment to  
Our Policyholders

Z 041 00200

LONG/STATE FARM  
SF1 0003 -P

LONG, MARTIN O. V. SFFCC

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## Our Commitment to Our Policyholders

*It is the responsibility of the State Farm claim staff to implement Company philosophy with respect to claim handling. Our commitment to our policyholders is to treat them like a good neighbor. We should:*

- Listen, be fair, be open, and carry out our part of the bargain under the contract in good faith.
- Be familiar and in compliance with those laws and regulations that impact claims in the appropriate state, and treat policyholders consistent with requirements of the law.
- Explain all relevant coverages under the policy. Encourage policyholders to report all losses and avail themselves of all benefits under their coverages.
- Diligently investigate the facts to determine if a claim is valid, reasonably evaluate the claim, and act promptly in resolving the claim. If it is necessary to reject a claim for coverage or damages, it should be done promptly and courteously, with an explanation for the decision.
- Make an objective evaluation of the facts and circumstances supporting our policyholders' claims. Doing so helps ensure our policyholders obtain all benefits available provided by the insurance policy.
- Give insureds a reasonable opportunity to comply with their responsibilities under the policy. If a claim is rejected, be willing to listen to subsequent input from the insured. Complete any necessary follow-up in a timely fashion, giving due consideration to any additional findings.
- Communicate with and be responsive to inquiries from insureds and their attorneys by promptly answering letters and phone calls.

In addition to our obligation to deal fairly with each policyholder, we also have an obligation to pay only covered claims in the proper amount. Payment of those claims not covered, or fraudulent claims, unnecessarily increases insurance costs for all policyholders.

In summary, we are committed to paying what we owe, promptly, courteously, and efficiently.

###

April 1999

Auto Claim Manual  
General Information

1

Z 041 00201

Our Commitment to Our Policyholders

LONG/STATE FARM  
SF1 0004 -P

LONG, MARTIN O. V. SFFCC

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# AUTO CLAIM COMMITTEE REPORT

Preparer's State Code: 01 Prepared by: Tony Nix Claim #: 01-6596-564      Pol #1: Claim #:                      Pol #2: Claim #:                      Pol #3: Named Insured: Martin Long Address: 2752 Caroline Dr. City: Millbrook State/Zip: AL, 36054	Rehearing <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Rehearing Number: Date of Last Hearing:  Agent: Mike Devers <div style="text-align: right;">Code: 01-1973</div>
--	--

## Policy #1

Policy No: 0886-750-01

Policy Form No: 9811A

### Coverage and Limits

A 100/300/50, C 5,000, D500, G500, H, U 20/40

Appl. Endors. Numbers: 6082 AJ.1

Coverage Involved: D500 (331)

Present Reserve: 27,500.00

Prior Reserve: 5,000.00

Date Set: 05-11-05

Date Set: 02-19-05

## SECTION MANAGER'S RECOMMENDATION:

### I. Questions:

Has the insured failed to cooperate with us by virtue of providing false and conflicting information, has there been direct and accidental loss of or Damage to property covered as defined in Section IV – Physical Damage Coverages, and has the insured concealed and misrepresented information material to the claim?

### II. Issues:

Our investigation has revealed that a loss as defined in Section IV - Physical Damage Coverages of the policy has not occurred and the insured concealed and misrepresented information material to the claim.

### III. Recommendation:

Deny the claim to the insured as the damage was not caused by a loss as defined in Section IV – Physical Damage Coverages and due to material misrepresentations made during the presentation of the claim.

Date of Decision: June 22, 2005

Return file copy? ☐ Yes ☒ No

Present: Jeff Crow, David Fisher,

Chairperson (E-Mail alias): David Thomas (BLVB)

Jon Hatch, Tony Nix, Lloyd Renfrow, Logan Smith,

Chairperson Phone #: 770-418-5936

Nancy Stevens, Brett Suiter



### STATEMENT OF FACTS

Date of Loss: February 19, 2005

Time: Approximately 7:00 a.m.

Location of Loss: Country Hearth Inn, 5400 Fairington Rd, Lithonia, GA

Include the following information:

- A) Described vehicle for each policy involved.  
2000 Chevrolet Corvette, VIN 1G1YY22G9Y5132554.
- B) Vehicle involved in loss.  
As described above.
- C) Driver of vehicle involved.  
Unknown.
- D) Brief statement of facts of loss.  
According to Mr. Long, on Friday, February 18, 2005, he drove the insured vehicle to Lithonia, GA in order to relax for the weekend. He stayed at a Country Hearth Inn located off I-20 in Lithonia, GA. On Saturday morning, February 19, 2005, at approximately 7:00 a.m., the insured discovered his vehicle missing from the parking lot. He called the Dekalb County Police Department and reported the theft of his vehicle.

On February 25, 2005, the insured vehicle was recovered, partially stripped and abandoned near an apartment complex in Decatur, GA.

### DESCRIPTION OF CLAIMS

List separately EACH Insured involved in the loss and provide all available information regardless of the status of that claim. Include as a minimum on Injury Claims:

- A) Identifying information on the insured (Age, employment, marital status, position in vehicle).  
Martin O. Long was born August 13, 1968 and is thirty six (36) years old. He has been unemployed since he was injured on the job at CSX Transportation in March 2003. A settlement in the amount of \$256,000.00 was reached with CSX Transportation in January 2005. Mr. Long received \$175,568.99 after attorney fees and expenses. Mr. Long was previously in the Army for approximately ten and a half (10 ½) years. In 1992, at a rank of E5, Mr. Long received an honorable discharge from the Army due to an injury he received parachuting out of a plane. He currently receives \$1,140.00 a month in disability benefits from the Army.

Mr. Long is currently separated from his wife, Evelyn Long, who resides at 1705 Deatsville Hwy, Millbrook, AL. Mrs. Long is employed with the State of Alabama in the Department of Human Resources. Mr. Long and Mrs. Long confirmed they have filed for divorce, but the agreement has not been finalized.

Mr. Long has no children and/or dependents.

- B) Detailed description of injuries and treatment.  
N/A.
- C) Discussion of impairment.  
N/A.
- D) Description and analysis of all damages.

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SF1 00060

The insured vehicle was recovered with the following damages and/or parts missing: The front bumper cover was damaged; the removable top and/or roof panel was missing; the front seats were missing; the wheels and tires were removed and replaced with another set; the passenger side window had been knocked out; scratches and minor damage to the interior upholstery; all over exterior scratches to the body; the exterior portion of the ignition lock cylinder was damaged; the cover around the column was loose; and finally, while sitting at the recovering wrecker service, the vehicle sat through a snow and ice storm completely soaking the interior. As a result, the vehicle was determined to be a total loss. CR Todd Smith requested an NADA valuation on the described vehicle and it reflects a base value of \$24,900.00. When considering tax and fees, the actual cash value of the insured vehicle is \$25,789.50 less the \$500.00 deductible.

Mr. Long purchased the insured vehicle on February 4, 2005, for approximately \$25,000.00 cash; therefore, there is no lien on the insured vehicle. A copy of the certificate of title was secured from the insured.

Mr. Long secured a rental vehicle from Enterprise RAC in Georgia the weekend of the alleged theft. He currently remains in the rental.

- E) Current demand and offers (specify if a time limit demand is involved).  
Affidavit of Vehicle Theft submitted by the insured indicates that he is making claim for \$25,000.00."
- F) Current evaluation and range of values.  
The actual cash value of the insured vehicle less the applicable deductible is \$25,289.50.
1. Any convictions or pleas?  
None.
  2. If claim in suit, when and where filed? Trial Date? Does Excess Assurance Protection (EAP) apply? ☐ Yes x No  
Date EAP Letter Sent?
  3. Other car insured? ☐ Yes ☐ No Limits Company
  4. Is there an umbrella policy or excess policy in existence? (Note: Both the Agent and the Insured must be contacted.) ☐ Yes x No  
If so, list name of carrier and advise date they were notified.
  5. Name of insured's attorney.  
On May 24, 2005, we received notice of representation from attorney F. Tucker Burge with Burge and Burge in Birmingham, AL.
  7. Name of our claim representative and recommendation.  
SIU CR Todd Smith recommends we deny the insured's claim.
  8. Recommendation of Claim Team Manager.  
Tony Nix recommends we deny the insured's claim.
  9. Unusual conditions affecting trial or verdict.  
N/A.
  10. Non-Waiver obtained? ☐ Yes X No
  11. Reservation of Rights Letter Sent? X Yes ☐ No
  12. From whom, or to whom? Date? Reason?

Long/State Farm  
SF1 00061

A Reservation of Rights letter was mailed to Mr. Long on March 4, 2005 with the following reason noted:

"It is questionable whether there has been direct and accidental loss of or Damage to property covered by the Physical Damage Coverages of the policy."

13. Issues (if needed to determine coverage, attach application file and coverage record, and copies of any pertinent endorsements.) When applicable, the following sub-headings should be covered:

A) Question

1. Has the insured failed to cooperate with us by providing false and conflicting information?
2. Has there been direct and accidental loss of or damage to property covered as defined in Section IV – Physical Damage Coverages?
3. Has the insured misrepresented information material to the claim?

B) Policy Language.

**REPORTING A CLAIM – INSURED'S DUTIES**

...

**5. Insured's Duty to Cooperate with Us**

- b. The insured shall cooperate with us and , when asked, assist us in:

...

- (2) securing and giving evidence;

...

**SECTION IV – PHYSICAL DAMAGE COVERAGES**

**Loss** – means, when used in this section, each direct and accidental loss of or damage to:

1. **your car,**

...

**CONDITIONS**

...

**9. Concealment or Fraud**

There is no coverage under this policy if **you** or any other **person** insured under this policy has made false statements with the intent to conceal or misrepresent any material fact or circumstance in connection with any claim under this policy.

Long/State Farm  
SF1 00062



## C) Evidence.

Prior to the referral to SIU, the following indicators and/or questions were recognized by the line unit

- In February 2005, the insured filed a claim under number 01-6586-758 where he was involved in an exchange of gunfire with another person. This claim was referred to SIU.
- Insured is unemployed.
- Insured claimed a large amount of expensive items stolen from his vehicle. Specifically, he filed a homeowner's claim under number 01-Q177-057, which was also referred to SIU.
- Insured has had a high frequency of claims.
- Insured is currently disabled.
- Insured vehicle was recently purchased.
- Loss on New Business (policy inception date was February 4, 2005).
- Insured has recent or current marital problems.
- Line unit indicated there was a delay and/or no report made to the police.

Upon referral to SIU, CR Todd Smith researched NICB On-line and found the insured vehicle was entered on NCIC as an active, stolen vehicle contrary to what the original referral to SIU indicated. On February 28, 2005, Todd spoke with a Detective in the Dekalb County Police Department's Auto Theft Unit and confirmed the vehicle was reported stolen on the date of loss. While discussing the case, the detective indicated the vehicle was recovered on Friday, February 25, 2005 abandoned in Decatur, GA. CR Smith called the insured and notified him of the recovery.

On February 28, 2005, Todd secured copies of the initial theft and recovery reports. Upon review, it was noted that the insured vehicle was recovered near an apartment complex less than ten (10) miles from the theft site. Also, the initial theft report failed to document any personal items stolen along with the described vehicle.

On March 1, CR Smith inspected the insured vehicle at Top Cat Towing in Lithonia, GA. At that time, he observed the damages as previously documented in this report. Even though there was minor damage to the column and exterior damage to the ignition lock cylinder, the steering wheel was in the locked position. He verified that the insured called Top Cat and gave them permission for State Farm to secure his vehicle. After the initial vehicle inspection, CR Smith spoke briefly with Mr. Long regarding the vehicle recovery and condition. Mr. Long advised Mr. Smith that he did not want the vehicle back after it had been stolen.

CR Smith conducted data research and secured documentation supporting Mr. Long's recent workers compensation case filed against CSX Transportation Railroad. Also, he secured documentation supporting a separate civil case Mr. Long filed against a man named Bobby Long in 2004.

Todd Smith met with Mr. Long in Montgomery, AL and secured his recorded statement regarding this claim. At that time, CR Smith gave Mr. Long an Affidavit of Vehicle Theft for his completion. As for the facts of the loss, Mr. Long stated he went to the Atlanta area Friday evening February 18, 2005, in order to get away and relax. He said he stayed at the same hotel four or five months ago. He could not recall the exact time he checked into the hotel, but thought it was possibly 10:00 or 11:00 a.m. Mr. Long claimed he went to the Atlanta area alone and just stopped off the interstate and got a room. CR Smith specifically asked him who he went with and he replied "just me." CR Smith questioned if a female was with him and he continued to claim he was by himself. He said he parked the insured vehicle directly in front of a door and/or entrance to the hotel with a surveillance camera nearby. He indicated he locked his vehicle and did not leave any keys inside the passenger compartment. On Saturday morning, February 19, 2005, at approximately 7:00 a.m., he discovered his vehicle missing. When asked why he was leaving the hotel at this time in the morning and he replied, "probably to get something to eat." Mr. Long observed glass in the parking lot next to where his vehicle was parked. After the discovery of his missing vehicle, he asked the hotel manager to review the camera and was told that it was not on. The insured called the local police and reported the theft. Mr. Long indicated the theft seemed like it was a set up and he believed the hotel manager had something to do with



it. Mr. Long admitted he cussed out the hotel manager during the course of their conversation regarding the fact that the surveillance camera was not on.

As for the keys to the insured vehicle, Mr. Long confirmed receiving two (2) sets of keys when he purchased it on February 4, 2005. He gave CR Smith one set but indicated that he did not know where the second set was located. Specifically, he said "I'm thinking I must have either left them in the car or somewhere. I don't know where the other set of keys are at." He confirmed the set of keys he provided State Farm was in his possession at the time of the alleged theft.

Mr. Long claimed he had a large amount of personal items in the vehicle at the time of the alleged theft. These items included the following: a 45 caliber handgun; a black leather jacket; \$5,000.00 cash; three (3) suits and two (2) pant suits; four (4) pairs of shoes; four (4) bracelets; three (3) rings; one (1) portable DVD player; and, a watch. CR Smith asked Mr. Long if he told the police about everything in his vehicle when he reported the theft and he admitted he did not. However, he indicated that a lady with the police department told him to wait and call back with everything in the vehicle and complete an additional information form. A supplemental narrative was added to the original theft report on March 2, 2005. At that time, the insured listed the personal items allegedly stolen from his vehicle. Mr. Long filed a separate claim under his homeowner's policy for the items reported as stolen.

During Mr. Long's recorded statement, CR Smith questioned him regarding his financial situation. Mr. Long admitted he recently settled a worker's compensation claim against CSX Transportation Railroad for \$256,000.00, of which he received approximately \$175,000.00. Also, he indicated that he currently receives approximately \$1,100.00 per month in disability benefits from the Army and these payments are his main source of income. Mr. Long acknowledged that he was having financial problems before he settled his worker's compensation claim. Upon receiving the settlement, he used a majority of the money to pay bills. These bills included approximately \$50,000.00 in credit card debt, \$43,000.00 for his wife's student loan and \$25,000.00 was used to purchase the insured vehicle. He stated that he only had \$5,000.00 left out of his settlement proceeds.

In addition to the described vehicle, the insured owns a Ford Mustang. As result of the insured being declared disabled from his employment with CSX Transportation Railroad, a disability benefit included in the finance agreement pays the remaining monthly payments on the vehicle. Thus, the insured is no longer obligated to make that monthly note.

Mr. Long previously filed a catastrophe hail claim in April 2003 regarding damage sustained to his home. As a result, he received payment in the amount of \$2,873.41. The policy notes on the Claim Service Record under claim number 01-Q177-057 reflect that the repairs were not made to the insured's home as he needed the money to pay his bills. Also, it states that he was expecting to go to court on January 31, 2005 to get compensation for an injury he received on the job. As of December 2004, no repairs had been made to the home. This information reflects that Mr. Long was having financial problems prior to the theft alleged theft.

Mr. Long was questioned about his recent auto claim which was filed February 13, 2005, under claim number 01-6596-758. He indicated that he was involved in an exchange of gun fire while driving his Ford Mustang in Millbrook, AL. Mr. Long admitted he accidentally shot his own vehicle after another person started shooting at him. As a result, State Farm paid \$3,363.80 for the damages. A copy of the incident report referencing this claim was secured from the Millbrook, AL Police Department. In addition, Mr. Long acknowledged that he had another Chevrolet Corvette stolen from his residence five (5) or six (6) years ago. As a part of this investigation, CR Smith researched frequency tracking, NICB data base, ISO data base, and interviewed the State Farm Agent. He could not locate any record of a previous claim involving a corvette.

On March 8, 2005, Mike Bresnock with Transportation Technology inspected the insured vehicle at Verastar South in Forest Park, GA. CR Smith met Mr. Bresnock at Verastar and gave him the key and keyless remote provided by our insured in order to assist with his inspection. The key functioned satisfactorily on the driver's side door lock, enabling it to open and lock with no irregularities. Mr. Bresnock's first attempt to start the vehicle using the key provided by Mr. Long was unsuccessful. After inspecting the pellet reader, Mr.

Bresnock was of the opinion that the pellet reader was simply mis-positioned which prevented the ignition key from rotating the ignition cylinder to the start position. When the pellet reader was properly positioned, the engine was able to start and run. While the engine was in operation the following messages appeared: low brake fluid, service traction sys, service active hndlg, and, brake before shift. The odometer reflected that the mileage on the insured vehicle was 71,064.

Mr. Bresnock then located the theft deterrent relay located on the passenger side floor surface. A visual inspection of the relay provided no evidence to indicate that it had been altered in anyway to enable the engine to be started without the correct key. After completing the ignition system and theft deterrent system test, it was Mr. Bresnock's opinion that the vehicle had not been started and operated without the correct ignition key. Also, Mr. Bresnock noted some marks on the rubber sections of the passenger side window weather stripping and the roof panel weather stripping. These areas may have been subjected to a sharp object which enabled access to the interior. Mr. Bresnock noted the glass breakage and missing parts as previously indicated in this report.

On June 22, 2005, Mr. Bresnock re-inspected the vehicle to conduct follow-up tests. He advised that the results of that testing did not change the opinion that had been previously communicated to State Farm.

In conclusion, Mr. Bresnock noted "the insured vehicle was equipped with the General Motors Pass Key System, which is a subsystem of the body control module. The body control module provides all of the logic to operate the pass key system. The body computer uses input information from other systems and components to determine the status of the pass key. The body computer controls its output functions based on the status of the pass key. The pass key fuel enable function is provided by the power control module. When the correct pass key is inserted into the ignition key lock, the key reader transfers the pellet information to the body computer. The body computer in turn signals the power train control module to enable or disable fuel injection in order for the engine to run. The ignition cylinder and key used by the pass key system is supplemented by a pellet reader to determine if the correct key is being used to start the vehicle. When the ignition is first turned on, the body control module measures the value of the key through the sensing contacts located on the pellet reader. The theft deterrent relay is part of the pass key system and can disable engine cranking through the theft deterrent relay. When the body control module detects the correct pass key, the body computer allows the engine to be cranked and simultaneously instructs the power train control module to enable fuel injection. Inspections and tests conducted on this vehicle provided no evidence to indicate that any of these systems had been by-passed to enable the vehicle to be started and driven without the use of the correct ignition key. In consideration of the tests and inspections along with the summary of this vehicle's theft control system it is Mr. Bresnock's opinion that this vehicle was not operated without the correct ignition key.

Mr. Long claimed his vehicle was equipped with a factory alarm system. He testified that his vehicle was locked and the alarm system was engaged. Mr. Bresnock completed an addendum to his original report addressing the alarm system on the insured vehicle. He indicated the 2000 Chevrolet Corvette was equipped with UTD (Universal Theft Deterrent System) in addition to the Pass Key theft deterrent system. The UTD and Pass Key security systems were standard equipment for the 2000 Chevrolet Corvette. The UTD system monitors the following through the BCM (Body Control Module): Driver & Passenger door ajar switches, courtesy switch, ignition switch (for an incorrect key), hood ajar switch, parking headlamp switch and power door lock switches. If the BCM senses an intrusion in any of the above, it enters the alarm mode, which consists of the horn sounding, the lights flashing, and the cranking and fuel are disabled.

Mr. Long testified that he received two (2) sets of keys when he purchased the vehicle only two (2) weeks before the alleged theft. At the time of the alleged loss, he only had one (1) set of keys with him. He provided this set to CR Todd Smith. He also identified this set of keys at his EUO and testified he recognized them as his key. Mr. Long testified that he does not know the location of the second set of keys. After Mr. Bresnock's inspection on March 8, 2005, Mr. Smith spoke with Mr. Long and discussed the key issue. Specifically, he addressed Mr. Long's inability to account for the second set of keys. At that time, Mr. Long got very angry. Once again, during Mr. Long's recorded statement, he could not explain where the other set of keys were located. He suggested they may have been left in the insured vehicle or somewhere? However, in his EUO, he testified that he did not give the second set of keys to anyone and

that they were not in the insured vehicle on the date of loss. Mr. Long testified that he had tried to look for the keys but was unable to locate them.

On March 4, 2005, Todd Smith met with Ram Naidu, shift manager at the Country Hearth Inn in Lithonia, and secured his recorded statement. He confirmed working Friday night, February 18, 2005 until Saturday morning, February 19, 2005. He said his shift did not start until after 8:00 p.m. and Mr. Long had already checked in prior to his shift starting. On Saturday morning, at approximately 7:00 a.m., he recalled Mr. Long came down into the lobby, walked outside and came back inside to report his vehicle stolen. Mr. Naidu confirmed sitting in the lobby with a friend that night and he recalled last seeing the insured vehicle between 2:30 a.m. and 3:00 a.m. He said Mr. Long asked him about the surveillance camera; however, he did not want to tell him that it was not working. Specifically, he indicated their computer that controlled the camera crashed a week before the alleged loss. He provided Mr. Long with the hotel manager's business card and recommended he follow up with his supervisor. Mr. Naidu said the insured made a couple of calls and approximately 15 to 20 minutes later, two of his friend's showed up in the lobby area. In addition to the two men, he said Mr. Long was accompanied by a woman. He overheard the two men and Mr. Long having a conversation. One of the men told Mr. Long to say that he had a suitcase in the car. Mr. Naidu understood the conversation to mean that Mr. Long should make up items which were in the car when the theft occurred in order to claim these on insurance. He also confirmed seeing glass in the parking lot and thought it was strange that the alarm did not go off if someone smashed the glass. He added he was sure he would have heard the alarm if it went off. Mr. Naidu indicated that the parking lot was well lit and he was surprised that the car was stolen. Mr. Naidu had no knowledge of any other vehicles being stolen from their location.

Based on the indicators present and the questions raised during the course of our investigation, we referred the matter to Attorney Angela Taylor to secure Mr. Long's EUO. On March 31, 2005, Mr. Long submitted to an EUO and provided all the requested documents in connection with the matter. During his testimony, he changed his story regarding the alleged facts of the loss. He testified that he and a lady friend named Valerie went to the Atlanta area the weekend of the alleged theft. He initially testified that he did not know Valerie's last name and he thought she lived somewhere in the Montgomery, AL area. We later learned she worked at the Doctor's office in Montgomery, AL that treated Mr. Long after his injury at CSX. Upon review of his cellular phone records, we noticed his account was actually under the name of Valerie Ware. Mr. Long confirmed Valerie purchased the phone for him, but he continued to act as if he wasn't sure of her last name. He testified that two of Valerie's brother's named Ricky and Sandy and two of their girlfriends followed them to the Atlanta area that weekend. He indicated the purpose of their trip was to relax. He said they arrived at the hotel in Lithonia on Friday, February 18, 2005 around 9:00 or 10:00 p.m. and this was the last time he saw his vehicle. The next morning, around 7:00 a.m., Ricky's girlfriend knocked on his door and asked about his vehicle. He claims she had gone to the Wal-Mart, which is located across the street earlier that morning and noticed the vehicle was gone when she returned. At that time, Mr. Long went downstairs and discovered his vehicle missing. He observed glass in the parking lot next to where his vehicle was originally parked. In Mr. Long's recorded statement, he said that he called the police and reported the theft. However, in his EUO, he testified that Valerie's brother, Sandy, actually called the police to report the theft while he called his niece in Millbrook, AL to get a phone number to call State Farm and file the claim. He testified that the police never came to the hotel to complete the report.

Mr. Long was asked if he recalled having any conversation with Ricky or Sandy regarding the contents in the insured vehicle. He testified that he could not recall any conversations he had with them about the contents. However, the shift manager at the Country Hearth Inn overheard the two men advising Mr. Long to claim his suitcase was stolen with the vehicle.

CR Smith identified a phone number for a Dr. Chung's office in Montgomery, AL. Afterwards, he confirmed they had a secretary at their office named Valerie. He spoke with Valerie and confirmed she knew Mr. Long. Specifically, she identified herself as Valerie Ware-Temple and she confirmed being with Mr. Long the weekend of the alleged theft. She confirmed her two brothers Ricky Ware and Sandy Ware and two of their lady friends also went with them to Atlanta that weekend. She said they went to visit her older brother, Donald Ware, who resides in the area. During Mr. Long's recorded statement, he said he did not go anywhere that weekend. During his EUO testimony, he failed to discuss going to Donald's home that Friday night.

CR Smith spoke with Donald Ware and confirmed that the insured had visited him on Friday evening. After leaving Donald's residence, Valerie said they arrived at the hotel around 10:00 p.m. She stated that Mr. Long parked his vehicle in the parking lot near an area supposedly monitored by surveillance cameras and this was the last time she saw his vehicle. On Saturday morning, at approximately 7:00 a.m., she said one of the girls named Felicia called their room and advised them the vehicle was missing. However, Mr. Long testified that the girl knocked on their door to discuss the vehicle missing. She acknowledged that there was glass in the parking lot and that Mr. Long confronted the shift manager about the camera. She advised that her brother Sandy reported the theft to the police. After returning to Alabama, Valerie confirmed having a conversation with Mr. Long regarding the keys to his vehicle. Specifically, she said Mr. Long told her he had a second set of keys that may have been left in the vehicle. However, she only confirmed seeing one set that weekend.

The insured claimed several expensive personal items were stolen from the insured vehicle. He filed a homeowner's claim under number 01-Q177-057, which was also investigated in connection with this matter. Misrepresentations were noted in the presentation of that claim and are addressed in a separate Recommendation for Claim Resolution.

On May 12, 2005, Mr. Long advised he was seeking legal council and requested a certified copy of his policy. On May 24, 2005, CR Smith spoke with Attorney F. Tucker Burge with Burge and Burge out of Birmingham, AL and confirmed his representation of our insured. Afterwards, CR Smith secured a faxed letter of representation. On May 26, 2005, a certified copy of Mr. Long's policy was mailed via certified mail return receipt requested to Attorney Burge.

D) Statutory and Case Law.

GENERAL LAW ON MISREPRESENTATION

Section 27-14-28, *Code of Alabama*, (1975) states:

"No misrepresentation in any proof of loss under any insurance policy shall defeat or void the policy unless such misrepresentation is made with actual intent to deceive as to a matter material to the insured's rights under the policy."

In *American Fire & Cas. Co., Inc. v. Archie*, 409 So.2d 854 (Ala. Civ. App, 1981), the court stated:

"After a loss, a misrepresentation need only be made with the actual intent to deceive and be related to a matter which is material."

E) Discussion/Recommendation

To recap the issues at hand, we know the following:

- This is a loss on new business. Mr. Long purchased the insured vehicle on February 4, 2005, which was also the policy inception date. The alleged theft occurred approximately two (2) weeks later.
- Mr. Long is on a limited income due to his disabilities.
- Mr. Long has admitted he was experiencing financial problems prior to his injury settlement with the railroad.
- He spent approximately \$170,000.00 of his \$175,000.00 settlement proceeds within a two week period. Specifically, he testified that he only had approximately \$5,000.00 left out of his settlement money.
- Mr. Long is currently going thru a divorce.
- The insured misrepresented material information related to the facts of the loss. Specifically, in his recorded statement, he claimed he was alone the weekend of the loss. After his statement and off the record, he admitted a female was with him; however, he refused to give us any of her contact information. He later testified that



- there were four other people with him and his lady friend named Valerie.
- An inspection of the insured vehicle by expert Mike Bresnock revealed it was not operated without the correct ignition key.
  - The insured indicated that when he exited the car at the hotel it was locked with the alarm system activated.
  - The insured has been unable to provide us with the second set of keys to his vehicle and he is unable to explain their whereabouts. In his recorded statement, he said the second set of keys may have been in the insured vehicle. At a later date, while discussing Mr. Long's inability to account for the other set of keys, he got very mad and demanded payment. In his EUO, Mr. Long testified that the other set of keys were not left in his vehicle.
  - A witness overheard two of the men with our insured advising him to claim his suitcase was stolen along with the vehicle. However, the insured testified that he could not recall any conversation he had with Valerie's two brothers.
  - As for the reporting of the alleged theft to the police, Mr. Long claimed he called the police in his recorded statement. However, in his EUO, he testified that one of Valerie's brothers called the police.
  - The insured claimed several expensive, personal items were stolen along with his vehicle. Inconsistencies were revealed in the investigation of the homeowner's claim filed in connection with this matter.
  - The insured admitted he has had a prior vehicle theft involving the same type of vehicle. In addition, he has recently filed another claim whereas he accidentally shot his own vehicle while exchanging gun fire with another person.

Based on our investigation, it would appear that there is sufficient evidence that Mr. Long had a financial motive to procure this vehicle theft.

We have revealed discrepancies and inconsistencies in the insured's recorded statements versus his sworn statement that support he misrepresented information material to the claim.

In summary, there is sufficient circumstantial evidence to support our insured's involvement in the alleged theft of his vehicle.

As a result of the above, it is my recommendation that we deny the insured's claim based on the fact that it does not meet the definition of a loss as defined in Section IV - Physical Damage Coverages and based on the Concealment or Fraud provision of the policy.

Long/State Farm  
SF1 00068

## PROPERTY LOSS PRELIMINARY REPORT

Claim Number: 01-6596-564	Policy #: 0886-750-01
Named Insured: Martin Long	Date: 03-04-05
Address: 2752 Caroline Dr., Millbrook, AL 36054	DOL: 02-19-05
Insured Vehicle or Loss Location: 2000 Chevrolet Corvette	VIN #: 1G1YY22G9Y5132554
Date Reported To: Agent: 02-19-05	Claim Office: 02-19-05
Date 1 <sup>st</sup> contact by Claim Rep: 02-19-05	Date Inspected: N/A
Date 1 <sup>st</sup> contact by SIU: 02-25-05	Date SIU Inspected: 03-01-05
Line Unit Mgr. Advised? Yes	
Coverage Question? Yes	Non-Waiver/Reservation of Rights? Earlier today, we completed a Reservation of Rights letter to be sent to our insured.
Nature of Question/s: "It is questionable whether there has been direct and accidental loss of or damage to property covered by the Physical Damage Coverages of the policy."	
Applicable Coverages: 331	
Rental Involved? Yes	Details: Prior to the referral to SIU, the insured secured a rental vehicle from Enterprise. Actually, on the date of loss, Claims Central in AL set up a rental vehicle in GA in order for the insured to get home.
Reason SIU Involved/NICB Indicators:	
<ol style="list-style-type: none"> <li>1) Prior to this claim, the insured recently filed a claim under number 01-6596-758 whereas he was involved in an exchange of gun fire with another person. This allegedly occurred on February 13, 2005 or approximately a week before the theft of his vehicle. This claim was referred to SIU as well.</li> <li>2) The insured is unemployed.</li> <li>3) The insured claims a lot of expensive items stolen from his vehicle. More specifically, he has filed a homeowner's claim under number 01-Q177-057. This claim has also been referred to SIU and assigned to me.</li> <li>4) Therefore, the insured has had a high frequency of claims recently.</li> <li>5) The insured is disabled from the Army and recently settled a workers compensation claim against the railroad.</li> <li>6) The insured vehicle was recently purchased; therefore, we have loss of new business.</li> </ol>	

PLAINTIFF'S  
EXHIBIT

20

Long/State Farm  
SF1 00122

Policy inception date was February 4, 2005.

- 7) Insured has recent marital problems.
- 8) The insured was unable to provide all the keys to his vehicle.
- 9) Claim Central indicated there was a delay in reporting the matter to the police.

Suggested Investigative Activities:

- Upon referral to SIU, I researched NICB On-line and frequency tracking. As previously indicated, the referral form to SJU indicated there was a delay in reporting the matter to the police. Actually, it indicated no report had been made to the police. However, when I researched NICB On-line, I noticed the vehicle was entered on NCIC as an active stolen vehicle.
- I went to the alleged theft site at the Country Hearth Inn, 5400 Fairington Dr., Lithonia, GA and left my business card with a request for the shift manager that was on duty that morning to call me to discuss the matter. While there, I secured photos of the theft site.
- On February 28, I spoke with a Detective Fitzpatrick with the Dekalb County Police and confirmed the vehicle was reported stolen to their agency. Actually, while speaking with him, I learned the vehicle had already been recovered. He faxed me a copy of the initial theft report and the recovery report. I verified the vehicle location at TopCat Towing in Lithonia and also called the insured and left him a detailed message regarding the vehicle recovery.
- On March 1, I inspected the insured vehicle at TopCat and secured photos. The top, seats and center caps were missing. Also, there appeared to be damage to the column and ignition. Unfortunately, the vehicle had sat out in the rain and sleet over the weekend and the interior was damaged as a result. While at TopCat, I verified the insured called and ok'd the release of his vehicle to State Farm. Afterwards, I called Verastar South and requested the insured vehicle pickup.
- I made the initial referral to the TC regarding the total loss.
- With the assistance of a CR in AL, we researched an on-line jurisdiction site for AL and secured a copy of the workers compensation case our insured filed against the railroad and another case he's recently filed against a relative of his.
- On March 2, I met with the insured in Montgomery and secured his statement regarding the claim, one key and keyless remote to his vehicle, receipts from recent purchase of tires for the vehicle and an alignment, his completed Affidavit of Vehicle Theft. Note, the insured said he had two (2) sets of keys to his vehicle when he recently purchased it; however, he could only provide us with one (1) set. I showed the insured photos of the recovered vehicle and he claimed the wheels and tires were stolen as well. Interestingly enough, the insured was very adamant he did not want the vehicle back regardless of the condition, claiming he did not want any vehicle after it had been stolen.
- Earlier today, I met with the Ram Naidu, the shift manager on duty at the Country Hearth Inn the morning the alleged theft was discovered. He confirmed our insured checked in on February 18<sup>th</sup> and checked out on February 20<sup>th</sup>. He stayed in room 217. He gave me a recorded statement regarding his involvement and knowledge of the matter.
- As for future handling, I'm scheduled to meet Mike Bresnock on Tuesday, March 8, 2005 at Verastar South so he can inspect the insured vehicle to see if the

ignition and column were defeated. I secured verbal permission from the insured to inspect his vehicle. After his inspection, we should have a better idea how we should proceed in this matter. In the meantime, I've faxed the request to inspect the insured vehicle to Mike.

- The insured admitted he and his wife recently separated and they are planning on filing for divorce. I will attempt to contact her to discuss this claim, their marital status, the insured's financial status, etc.
- Also, I feel like we should request our insured's cell phone records. Note, the shift manager at Country Hearth Inn said our insured called someone via his cell phone after discovering the theft. Then, shortly there after, two men of Jamaican decent arrived and met the insured. He even said these 2 men went to our insured's room with him. However, our insured claimed he was not there with anyone and did not have any friends there. Also, the insured initially said he was not even there with a woman. However, off the record, he admitted he met a woman there, but he did not want this information to get out and would not give me her name. It would appear our insured is not telling us the truth relating to the events from that morning.
- I will plan on contacting the dealer in Hueytown, AL that recently sold the vehicle to our insured to discuss the vehicle condition, etc.
- I will secure a valuation on the insured vehicle to determine the ACV.
- We may want to consider an EUO based on the indicators present and the initial questions raised thus far in our handling.

Reserves Adequate? At this time, yes		Salvage Involved? Yes
Open In Register? Unknown. I will follow up with Pennie to make sure it's opened in the register.		Jacket Marked? No
Claim Rep: Todd Smith	Office: Carrollton	Date: 03-04-05
Attachments enclosed?	Yes - See claim file	No
*****		
<b>Supervisory Comments:</b> Continue as outlined above. Advise if an EUO is warranted. A&E is waived.		
Team Manager: Tony Nix	Date: 3/4/05	Next Diary Date: 4/4/05 Type of Report: Progress

Enclosures:

Long/State Farm  
SF1 00124



# Burge & Burge

## Trial Lawyers

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June 29, 2005

Frank O. Burge, Jr.  
F. Tucker Burge  
Courtney B. Brown  
Claire B. Morgan

Mr. Todd Smith  
State Farm Insurance Companies  
11350 Johns Creek Parkway  
Duluth, GA 30198-0001

Re: Martin Long  
Claim Number: 01-6596-564  
Date of Loss: February 19, 2005

Dear Mr. Smith:

I am writing in follow up to your June 28, 2005, conversation with my secretary, Jane Blalock, in which you informed her that State Farm was denying Mr. Martin Long's claim on the grounds that his claim did not meet the qualifications as a loss under his insurance policies and on the grounds that he made material misrepresentations. Please provide my office with State Farm's written statement outlining Mr. Long's alleged material misrepresentations.

Sincerely,



F. Tucker Burge

FTB/jb



Long/State Farm  
SF1 00133



NAMED INSURED 01-1973-443Y

LONG, MARTIN O  
 2752 CAROLINE DR  
 MILLBROOK AL 36054-4103

POLICY NUMBER 88 6750-B04-01  
 POLICY PERIOD FEB 04 2005 to AUG 04 2005

STATE FARM PAYMENT PLAN NUMBER  
 1021767709

AGENT  
 MIKE DEVERS INS AGENCY INC  
 100 DEATSVILLE HIGHWAY  
 MILLBROOK, AL 36054-1828

PHONE: (334)285-3662

DO NOT PAY PREMIUMS SHOWN ON THIS PAGE.  
 SEPARATE STATEMENT ENCLOSED IF AMOUNT DUE.

YEAR	MAKE	MODEL	BODY STYLE	VEHICLE ID NUMBER	CLASS
2000	CHEVROLET	CORVETTE	2DR	1G1YY22G9Y5132554	1A30N182

SYMBOLS	COVERAGES	PREMIUMS
	See policy for coverage details.	2000
A	Bodily Injury/Property Damage Liability	CHEVROLET
	Limits of Liability-Coverage A-Bodily Injury	\$167.65
	Each Person, Each Accident	
	\$100,000 \$300,000	
	Limits of Liability-Coverage A-Property Damage	
	Each Accident	
	\$50,000	
C	Medical Payments	\$18.48
	Limit of Liability-Coverage C	
	Each Person	
	\$5,000	
D500	\$500 Deductible Comprehensive	\$88.21
G500	\$500 Deductible Collision	\$315.18
H	Emergency Road Service	\$5.30
U	Uninsured Motor Vehicle	\$42.50
	Limits of Liability-U	
	Each Person, Each Accident	
	\$20,000 \$40,000	

Total premium for this policy period FEB 04 2005 to AUG 04 2005. \$637.32 This is not a bill

IMPORTANT MESSAGES

Your policy consists of this declarations page, the policy booklet - form 9901.6, and any endorsements that apply, including those issued to you with any subsequent renewal notice.  
 replaced policy number 0545279-01A001.

OPTIONS AND ENDORSEMENTS (See individual endorsement for details)

01.1 AMENDMENT OF DEFINED WORDS, COVERAGE AND CONDITIONS..



Long/State Farm  
 SF1 00146

YEAR	MAKE	MODEL	BODY STYLE	VEHICLE ID NUMBER	CLASS
2000	CHEVROLET	CORVETTE	2DR	1G1YY22G9Y5132554	1A30N182

SYMBOLS	COVERAGES	PREMIUMS
	See policy for coverage details.	2000 CHEVROLET
A	Bodily Injury/Property Damage Liability	\$167.65
	Limits of Liability-Coverage A-Bodily Injury	
	Each Person, Each Accident	
	\$100,000 \$300,000	
	Limits of Liability-Coverage A-Property Damage	
	Each Accident	
	\$50,000	
C	Medical Payments	\$18.48
	Limit of Liability-Coverage C	
	Each Person	
	\$5,000	
D500	\$500 Deductible Comprehensive	\$88.21
IG500	\$500 Deductible Collision	\$315.18
H	Emergency Road Service	\$5.30
U	Uninsured Motor Vehicle	\$42.50
	Limits of Liability-U	
	Each Person, Each Accident	
	\$20,000 \$40,000	
Total premium for this policy period FEB 04 2005 to AUG 04 2005		\$637.32

#### IMPORTANT MESSAGES

Your policy consists of this declarations page, the policy booklet - form 9901.6, and any endorsements that apply, including those issued to you with any subsequent renewal notice.

Replaced policy number 0545279-01A001.

#### EXCEPTIONS AND ENDORSEMENTS (See individual endorsement for details.)

6901.1 AMENDMENT OF DEFINED WORDS, COVERAGE AND CONDITIONS..

Long/State Farm  
SF1 00147

Date Countersigned \_\_\_\_\_  
By \_\_\_\_\_

Agent: MIKE DEVERS INS AGENCY INC

Telephone: (334)285-3662

Prepared FEB 09 2005 1973-285





## State Farm Fire and Casualty Company

April 18, 2005

Todd Smith  
Claim Representative  
Special Investigative Unit

Office 770-593-6570  
Fax 770-593-6496

Valerie Ware-Temple  
6936 Winton Blount Blvd  
Montgomery, AL 36117

RE: Claim Number: 01-6596-564  
Insured: Martin Long  
Date of Loss: February 19, 2005

Dear Ms. Ware-Temple:

First and foremost, thank you for taking the time to discuss the above-referenced claim with me earlier today. This letter will serve to confirm our brief conversation.

As discussed, you confirmed working at Dr. Chung's office in Montgomery, AL and you indicated this was the best address and number to contact you. As for Mr. Long, you confirmed being friends with him. More specifically, you confirmed accompanying him to the Atlanta and/or Decatur, Lithonia, GA area the weekend of February 19, 2005. You confirmed your two (2) brother's Ricky Ware at cellular # 334 451-0045 and Sandy Ware at cellular # 334 294-2113 as well as two lady friends of theirs named Felecia Powell and Latoya accompanied you and Mr. Long that weekend. You confirmed staying at the Country Hearth Inn at I-20 and Panola Road. That Friday night, you confirmed visiting your other brother, Donald Ware, who resides in an apartment and/or condo in the Decatur, Lithonia, GA area. As for Donald, you confirmed his cellular # is 678 887-1851. Also, you confirmed recently speaking with Mr. Long, as he contacted you and secured a phone number to contact your brother Donald in order to give this information to State Farm. After visiting your brother, you went to the Country Hearth Inn and arrived there around 10:00 p.m. Georgia time. You indicated Mr. Long parked his 2000 Chevrolet Corvette near an area supposedly monitored by a surveillance camera and this was the last time you saw the vehicle.

As for the keys to Mr. Long's vehicle, you indicated Mr. Long had one (1) set of keys with him that weekend. However, you confirmed having a conversation with Mr. Long after the reported theft regarding the number of keys he had. Specifically, you said Mr. Long told you he had a second (2<sup>nd</sup>) set of keys and they may have been left in the vehicle. However, you only confirmed seeing one (1) set that weekend.



Long/State Farm  
SF1 00167

April 18, 2005  
Page -2-

On Saturday morning, at approximately 7:00 a.m., you confirmed receiving a call from Felecia indicating Mr. Long's vehicle was missing and there was glass in the parking lot. As for Felicia, you indicated that Saturday morning, she had apparently gone to WalMart, which is located across the street from the Country Hearth Inn, and discovered the missing vehicle when she returned.

After receiving the call from Felecia, you confirmed you, Mr. Long and your brothers all went downstairs to the lobby. After discovering the vehicle missing and noticing the glass in the parking lot, you indicated Mr. Long asked the shift manager about the surveillance camera and the manager gave conflicting information about the video. As for the report, you indicated Mr. Long attempted to report the theft to the police; however, your brother Sandy ended up calling them a second time to report the matter. You did not recall any conversation between your brothers and Mr. Long regarding the items he had in his vehicle and/or items he needed to claim stolen from his vehicle. You also indicated after the theft was discovered, Mr. Long called his niece in AL to secure a phone number to report the matter to State Farm. Also, you confirmed Mr. Long secured a rental vehicle in order to return home from Georgia.

You confirmed Mr. Long had the following items in his vehicle at the time of the alleged theft: some suits, shoes, jewelry, some cash, a gun, CD's and a CD changer. You confirmed Mr. Long had removed some of his luggage upon your arrival at the Inn.

In addition, you confirmed securing a cellular phone for Mr. Long under your account. However, as you were traveling to Georgia that weekend, you did not use Mr. Long's cellular phone to call anyone, as you had your own phone to use.

If I have misstated any information discussed in our conversation, please make the appropriate changes on this letter and return it to my attention. In the absence of the receipt of any changes, the information contained in this letter will stand as affirmed. Once again, thanks for your time and attention to this matter.

Sincerely,

Todd Smith  
Claim Representative  
(770) 593-6570

COPY

Long/State Farm  
SF1 00168



**Pennie Green**

**From:** Tony D Nix  
**Sent:** Thursday, February 24, 2005 8:51 AM  
**To:** Lester A Walker  
**Cc:** Kelly M Phillips; Todd Smith; Pennie Green  
**Subject:** Auto/Fire Claim Referral to SIU

**Auto/Fire Claim Referral to SIU**

SFF Form Routing Information  
To Forward or Edit, use the Forward/Edit button included above.

Kelly M Phillips → Claim Team Manager

To: Lester A Walker (CWKA)

cc: Kelly M Phillips (BNMU); Todd Smith (CZHV); Pennie Green (BJXR)

27

*Kirk Watson*  
To: Tony Nix, SIU Team Manager

From: Lester Walker, Unit Team Manager

Office: ACC

Team manager phone #: (205)916-6935

Insured: Martin Long

Claim #: 01-6596-564

Claim #: —

Loss type: Auto

Date of loss: 02/19/05

Insrd's present location: 2752 CAROLINE DR

Insrd's phone #s:

Home: (205)290-0344

Work #1: 0- ext.

Work #2: 0- ext.

Other: 0-

*Bill Cooper*  
Long/State Farm  
SF1 00193

Brief facts: This loss occurred on February 19, 2005 in Lithonia, GA, (right outside of Atlanta). The insured's vehicle was parked in a hotel

2/24/2005

parking lot. The vehicle and its contents were stolen from that parking lot. The insured advised he tried to report the theft to the Lithonia Police, however they would not fill out a report as the insured did not have the serial number for the gun taken.

The insured reported he parked the vehicle right under a video camera in the parking lot. Further, he reported the camera was not functioning that night. I spoke with Rag, the hotel manager, 404-384-8100. He advised there are four surveillance cameras located at the hotel. There is a camera at the back door, in the lobby, over the cash register and one pointed outside to the customer drop off area. According to Rag, the cameras were not working that night, however, there were no cameras pointed in the parking area (where the insured's vehicle was parked).

I spoke with Ram, 404-412-9464. He was the manager on duty on the night of the theft. He left at 9 AM the next morning. He advised the insured told him the car had been stolen. The insured asked for the video tape of the parking lot. Ram asked him why he wanted to video tape prior to calling the police. The insured told him to call 911. He called and the insured spoke with the police. He does not know what was said. Ram told the insured the cameras were not working the night of the theft. The insured became very angry there were no tapes. The insured had a female companion with him at the time. She was staying at the hotel with him. Additionally, there were two men who described themselves as friend's of the insured. They were not staying at the hotel. They just appeared shortly after the insured advised of the stolen car.

The insured's friends are described by Ram as Jamaican men with Jamaican accents. The men told the insured just to tell them there was a suit case full of clothes in the car so they could make a claim for them. When Ram left at 9 AM, the police had not arrived. He is not sure who came in after him. It would have been Alfredo or Judith. Ram has a friend who works at the Wal-Mart across the street. His friend told him even with 24/7 security they continue to have cars stolen from their parking lot.

Ram also told me the Paramedics were on the scene shortly before the insured found the car missing. They were there responding to a man having a seizure. They may have seen what happened.

The insured reported the theft to the Millbrook police. The field claim representative asked the insured to report it to the Lithonia Police Department. I ran an NICB. It shows no police reporting agency has been made aware of the theft.

NICB (IBC Canada)  
indicators/ reason(s) for  
referring:

The insured is not employed.  
The hotel night manager overheard the insured and friends

Long/State Farm  
SF1 00194

2/24/2005

talking about adding items to the items taken in the vehicle.  
Claim history.

To be Completed by SIU Team Manager Only:

Accepted: Yes

Comments: Thanks for the referral. Todd Smith will be assigned to this loss.  
Please move to us on the system and forward the master file if  
there is one to our attention.

Created by Kelly M Phillips (BNMU) on 02/23/2005 at 12:01 PM using version 1.06 of Form ID 102187  
Updated by Tony D Nix (AQF9) on 02/24/2005 at 07:48 AM using version 1.06 of Form ID 102187

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disclosed without appropriate State Farm authorization.

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SF1 00195

2/24/2005



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## **CASE 25050 Addendum**

State Farm Case File: 01-6596-564

### **1.0 ASSIGNMENT**

1.1 Client

1.2 Subject

1.3 Location

1.4 Purpose

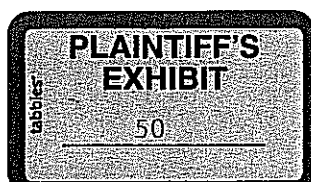
1.5 Date of Inspection

### **2.0 PARTICIPATING PERSONNEL**

### **3.0 EXAMINATION OF VEHICLE**

### **4.0 CONCLUSIONS**

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SF1 00227



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## **1.0 ASSIGNMENT**

**1.1 Client:** State Farm Insurance Company

Todd Smith

**1.2 Subject:** 2000 Chevrolet Corvette

Ser# 1G1YY22G9Y5132554

Mileage: 71,064

**1.3 Location:** Verastar South

Rex Road

Forest Park, Georgia

**1.4 Purpose:** Reinspection

**1.5 Date of inspection:** June 21, 2005

## **2.0 Participating Personnel**

**2.1 Investigator:** Michael E. Bresnock- Consultant

Transportation Technology

Long/State Farm  
SF1 00228

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## **3.0 EXAMINATION OF VEHICLE**

3.1 At the request of State Farm insurance Company the above mentioned vehicle was re-examined while it was being retained at Verastar South in Forest Park, Georgia. State Farm Insurance Company had custody of the key and remote transmitter which was made available for this inspection.

3.2 As indicated in the original report this vehicle featured the General Motors Pass Key System. Tests conducted during the initial inspection and during this inspection indicated the pass-key system was functioning. The pellet reader had been pulled from the ignition key lock when this vehicle was initially examined. It was reinstalled in the proper position during the preliminary inspection. At the time of this inspection the pellet reader was removed from the key lock, the key was inserted into the key lock and then rotated to the "On" then "Crank" positions. The engine would not crank or start. The pellet reader was then placed in its original factory installed mounting position on the ignition key lock. The key was inserted through the pellet reader into the key lock and rotated clockwise to the "On" then "Crank" positions. The engine cranked and started. The initial test that was performed on

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March 8, 2005 and this test (June 21, 2005) both produced the same results. "This vehicle will not start with a key that does not have the correct pellet". The key lock would not rotate to "On" or "Start" position with a key that was incorrectly cut for the lock.

3.3 Several of the plastic close out dash panels were removed to access the ignition switch wiring (Photo #1). None of the ignition switch wiring showed signs of temporary or permanent over-rides to enable the engine to start without the correct key cut and key pellet (Photo #2, #3).

3.4 When this vehicle was manufactured the specifications called for an electronic steering lock which prevented the steering wheel from turning when the key was removed. Each time the ignition key was inserted into the key lock and rotated a buzzing noise was able to be heard. A similar noise was heard each time the ignition key lock was turned to the "Off Lock" position and the key was withdrawn. With each insertion and removal of the ignition key, the steering column never locked or unlocked. An examination of the steering column wiring provided no evidence to indicate an alteration had been performed (Photo #4). It was later,

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determined that this Corvette was part of recall #04V06000 which required the lock plate to be removed (Photocopy #1). This finding would account for the steering column's failure to lock and unlock when the key was inserted rotated and removed from the ignition key lock.

3.5 This vehicle was equipped with the UTD alarm system. The system was able to be armed (as indicated by the security lamp on the dash) but when the system was violated by operating the power door lock switch, parking lamp switch, opening doors or opening the hood, the alarm failed to operate. Tests conducted on the system enabled some electrical switches and components to be eliminated but the end result indicated the UTD (Universal Theft Deterrent) system did not work as intended.

3.6 During the initial inspection the transmission shift control lever could not be moved from the "P" Park position. During this inspection the plastic panels and covers were removed to access the mechanical portion of the transmission controls (Photo #5). It should be noted that Federal Motor Vehicle Safety Standards #102 and #114 apply to this vehicle's transmission shift control mechanism. In order to



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comply with the safety standards, the manufacturer chose to use a cable that extended from the ignition key lock to the transmission shift control. After disconnecting the cable from the transmission linkage, it was possible to remove the transmission from the "P" Park position (Photo #6). While the engine was in operation the shift mechanism was moved into the "D" Drive and "R" Reverse positions. The vehicle's transmission responded by allowing the vehicle to move forward and rearward. There was considerable difficulty in moving the shift mechanism into the "P" Park position after conducting the above mentioned tests. It is likely that the linkage was bent.

3.7 The vehicle was elevated for an undercarriage examination (Photo #7). There were indications of undercarriage interference contact (Photos #8, #9). The message center on the instrument cluster indicated brake system and traction control system failures. The brake system problem was able to be verified when a brake application allowed the pedal to travel almost to the floor board. The traction control system problem could not be verified or diagnosed because it required an undercarriage inspection. Undercarriage inspections are routinely denied because of safety concerns at all Verastar salvage lots.

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3.8 While the engine was in operation the oil pressure gauge was in a full travel position. Additional tests indicated the gauge was not functioning properly. The gauge moved to the full travel position and remained in that position even when the engine was not in operation.

## **4.0 CONCLUSIONS**

4.1 Numerous tests were conducted on this vehicle's alarm and theft deterrent systems. The General Motors Pass Key System was not defeated in a manner which enabled the engine to be operated without a key having the correct cut and correct resistor pellet. The UTD (Universal Theft Deterrent System) was not functioning at the time the vehicle was inspected. The UTD system is an alert which sounds the horn and temporarily inhibits starting. The General Motors Pass Key is still required to start the engine. The other malfunctioning equipment (shifter, brakes and traction control, etc.) have no bearing on the actual starting of the engine and driving the vehicle. The results of an incorrect ignition key cut or incorrect key pellet can be shown, demonstrated and tested.

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RECEIVED

MAR 18 2005

SIU

March 17, 2005

Todd Smith  
State Farm Insurance Company  
P.O. Box 370568  
Decatur, GA 30037

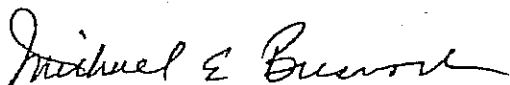
Re:	Fire Loss	
	Transportation Technology No. :	25050
	Claim No#	01-6596-564
	Owner:	Long

Dear Mr. Smith:

Enclosed are the report and invoice for subject investigation. Please contact me if you have any questions or need further assistance.

Thank you again for the opportunity to assist you.

Sincerely,



Michael E. Bresnock



Long/State Farm  
SF1 00248

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CASE 25050

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1.2 Subject

1.3 Location

1.4 Purpose

1.5 Date of Inspection

### 2.0 PARTICIPATING PERSONNEL

### 3.0 EXAMINATION OF VEHICLE

### 4.0 CONCLUSIONS

### 5.0 PHOTOGRAPHS

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## **1.0 ASSIGNMENT**

**1.1 Client:** State Farm Insurance Company

Todd Smith

**1.2 Subject:** 2000 Chevrolet Corvette

Ser# 1G1YY22G9Y5132554

Mileage: 71,064

**1.3 Location:** Verastar South

Rex Road

Forest Park, Georgia

**1.4 Purpose:** Post theft inspection.

**1.5 Date of inspection:** March 8, 2005

## **2.0 Participating Personnel**

**2.1 Investigator:** Michael E. Bresnock- Consultant

Transportation Technology

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SF1 00250



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## 3.0 EXAMINATION OF VEHICLE

3.1 At the request of State Farm Insurance Company, the above mentioned vehicle was inspected while it was being retained at Verastar South in Forest Park, Georgia. Information obtained from the insurance company indicated this vehicle was reported stolen and at some later date it was recovered and eventually made its way to Verastar South in Forest Park, Georgia. A key along with the electronic remote control were provided by State Farm to assist in the investigation. The key was able to function satisfactorily on the driver's side door lock, enabling it to open and lock the door with no irregularities. All four of the vehicle's original wheels had been removed and replaced by some aftermarket type (Photo #1, #2). You will note that the wheels were secured by a loosely fastened wheel lug nuts.

3.2 The vehicle was equipped with the *C*orvette 5.7liter fuel injected engine (Photo #3). It was noted that the brake master cylinder reservoir was empty (Photo #4). The engine oil level was within a safe operating range (Photo #5). There were no personal belongings found in the interior of the vehicle (Photo #6). It was also noted that both front seats were missing (Photo #7, #8). The initial attempt to start the vehicle using the keys provided by State Farm Insurance Company was

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unsuccessful because the key pellet reader had been mis-positioned. After loosening the retaining screws and repositioning the center console, it was possible to remove the pellet reader for inspection (Photo #9, #10, #11, #12). It is our position that the pellet reader was simply mis-positioned, thereby preventing the ignition key from rotating the ignition cylinder to the start position. The theft deterrent relay was located on the passenger's side vertical floor surface as indicated on photocopy #1. A visual inspection of the theft deterrent relay provided no evidence to indicate that it had been altered in any way to enable the engine to be started without the correct key (Photo #13). The key was inserted through the pellet reader and into the ignition key lock and then rotated to the crank and start positions. When the pellet reader was properly positioned, the engine was able to start and run. While the engine was in operation (as indicated by the tachometer), several messages appeared in the operator information center (Photo #14, #15, #16, #17, #18). After completing the ignition system and theft deterrent system test, it was our opinion that this vehicle had not been started and operated without the correct ignition key. There were some marks on the rubber sections of the passenger's side window weather strip and on the weather strip for the roof panel. These areas may have been subjected to a sharp object which enabled access to the interior. The roof panel was missing.

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at the time of this investigation and some of the door glasses were broken. The engine was allowed to operated for approximately twenty minutes. During that period of time temperature and oil pressure was monitored (Photo #19). There were no operational irregularities. It was not possible to move the shift lever from the park position after the engine was in operation. This may have been caused by the low brake fluid as the system requires the brake pedal to be depressed before switching from the park position.

## **4.0 CONCLUSIONS**

4.1 This vehicle was equipped with the General Motors Pass Key System, which is a subsystem of the body control module. The body control module provides all of the logic to operate the pass key system. The body computer uses input information from other systems and components to determine the status of the pass key. The body computer controls its output functions based on the status of the pass key. The pass key fuel enable function is provided by the power control module. When the correct pass key is inserted into the ignition key lock, the key reader transfer the pellet information to the body computer. The body computer in turn signals the power train control module to enable or disable fuel injection in order for the engine

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to run. The ignition cylinder and key used by the pass key system is supplemented by a pellet reader to determine if the correct key is being used to start the vehicle. When the ignition is first turned on, the body control module measures the value of the key through the sensing contacts located on the pellet reader. The theft deterrent relay is part of the pass key system and can disable engine cranking through the theft deterrent relay. When the body control module detects the correct pass key, the body computer allows the engine to be cranked and simultaneously instructs the power train control module to enable fuel injection. Inspections and tests conducted on this vehicle provided no evidence to indicated that any of these systems had been by-passed to enable the vehicle to be started and driven without the use of the correct ignition key. In consideration of the tests and inspections along with the summary of this vehicle's theft control system it is our opinion that this vehicle was not operated without the correct ignition key.

Investigator: Michael E. Bresnock

Michael E. Bresnock

Long/State Farm  
SF1 00254



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Photograph: #2

Transportation Technology : 25050

Date Taken: March 8, 2005

Description of Subject: Wheel (passenger's side front)

Note: Missing and loose wheel lug nuts.

Long/State Farm  
SF1 00257



This is Todd Smith interviewing Ram. Today's date is March the 4th, the year 2005, and it's currently 8:30 A.M. This is concerning a claim filed by Martin Long regarding the theft of his 2000 Chevrolet Corvette. This interview is taking place at the Country Hearth Inn off of Berington(sp?) Drive in Lithonia, Ga.

Q. Ram could you please pronounce your name and spell it for me?

A. Uh, first name is uh, Ram R-A-M, the last name is Naidu N-A-I-D-U.

Q. Now you're a Manager here at the Country Hearth Inn is that correct?

A. Uh, well...

Q. Shift Manager is that...

A. Shift Manager you could say not the Manager.

Q. Okay. Are you aware of the gentleman that we're discussing Martin Long?

A. Um hum, yes.

Q. Okay. How do you know, did he stay here at your hotel?

A. Uh, yes I believe so, he did.

Q. Do do you remember the night that he came in to stay?

A. Uh, I don't exactly remember checking him in. He probably checked in before I got on the shift 'cause I didn't start 'til um, I think a little after 8:00 that night, so he'd already checked in.

Q. Okay.

A. Um...

Q. Would that have been on a Friday night, does that sound correct?

A. Friday night, that's right.

Q. Okay. And then so you were on shift then all through Friday night and then Saturday morning were y- you still on the shift?

A. Um hum.

Q. What happened Saturday morning?

A. Uh, Saturday morning uh, been close to just after 7:00 uh, uh, this gentleman came down and uh, he he walked right out turned around and came back and said his car was stolen. Uh, didn't look, really look like he was going out for a drive the way he was dressed.

Q. What was he dressed as at the time?

PLAINTIFF'S  
EXHIBIT

Long/State Farm  
SF1 00307

Statement Of: Ram Naidu  
Claim: 01-6596-564

Page 1

A. Yeah. Well the other two guys who came in, oh they were they were having a lot of conversation out there in in the front. Uh, they they were particularly concerned about that camera on top of the building. Didn't realize that camera actually looks right there on that side. And uh, then they stood back there. Spoke for again some time. Went up to the room, came back down.

Q. Did the guys go up in the room with him?

A. Um hum. Yep. Then they came back down and um, they wanted to gain um, get hold of the surveillance cameras.

Q. Did they ever have any conversation with him di- or did you ever overhear any conversation about what he should claim was stolen in the vehicle?

A. Um hum.

Q. What happened there?

A. Well one of the guys was suggesting that he just say that a suitcase was in there with some belongings.

Q. Did he ever mention what was in the car?

A. No.

Q. He never mentioned it? Did he have do you ever recall...

A. He did say that he had a bunch of keys in there he said.

Q. A bunch of keys in the car?

A. Um hum.

Q. Did he mention anything about having any personal items like clothing in the car?

A. Nope. But he did, the other guy did say to him to say that you had a suitcase in the car with some stuff in it. I I do...

Q. In other words he was telling him you need to make up like and just say that you had some, even though it might not have been in there?

A. I would say that was fairly the intent and I, and that's what I perceived it was.

Q. Did you see any glass or any evidence that, in the parking lot?

A. Yes, there was there was a fair amount of glass out there.

Q. Right beside where the car would have been parked?

A. Um hum. The the funniest thing is I mean as far as I know uh, to his car if you smash the glass and the alarm doesn't go off it's very shocking. I'm sure if the alarm went off there I would definitely hear it.

This is Todd Smith interviewing Martin Long. Today's date is March the 1st, actually March 2nd...

A. March the 2nd.

Q. Excuse me. Today's date is March the 2nd and it is currently, this interview is taking place in Alabama and it's currently 9:25 A.M. Alabama time, 10:25 Georgia time. This interview is taking place at our Montgomery Claims Office in Montgomery, Alabama. Mr. Long is this recording being made with your full knowledge and consent?

A. Yes, sir.

Q. Could you please pronounce your full name and spell it for me?

A. Martin M-A-R-T-I-N.

Q. And your middle name?

A. Oh, O'Neal O apostrophe N-E-A-L, Long L-O-N-G.

Q. Now our records are showing a 1705 Deatsville Highway in Millbrook and you told me that is not the correct address, that's actually an address for is that your ex-wife is that correct?

A. Yes, sir, but she's not my ex yet, that what I'm...

Q. Okay.

A. She just got that address a week ago and I don't understand how they...

Q. Okay.

A. It ended up there.

Q. Well let me make a note then on this. So the Deatsville Highway is, and what's your wife's name?

A. Evelyn Beth Long E-V-E-L-Y-N.

Q. G?

A. Um hum. Long L-O-N-G.

Q. So that's her address?

A. Yes, sir.

Q. And that's been since when?

A. Uh, she just got that address last Saturday. The Saturday just past about three four days ago.



Long/State Farm  
SF1 00315

Statement Of: Martin Long  
Claim: 01-6596-564  
Page 1



A. That set was with me.

Q. That's the set you had there that Saturday morning?

A. Yeah.

Q. You don't know what you did with your other set of keys?

A. Huh uh.

Q. No you can't you can't know, in other words you can't tell us anywhere where they might have been, like in other words did you lock them in your glove box or did you...

A. I don't know I don't think I did. I mean, I could have I don't know, I don't know wh- where my other set of keys is.

Q. Haven't you got a keyless entry to it?

A. Um hum.

Q. Is that correct?

A. Yes.

Q. How many miles were on the vehicle?

A. When I bought it?

Q. Right.

A. I think it was 68. Like how it is on that pink one that that Lee guy...

Q. 68,000?

A. Um hum.

Q. Had any problems with the vehicle?

A. Huh uh.

Q. Since you bought it have you had it serviced? Did you ever have the oil changed or anything?

A. Yeah, I've got the oil changed.

Q. Who did that?

A. Uh, Chevrolet in Prattville. And I bought some tires for it which I got them receipts right here.

Q. Is that the Chevrolet dealership in Pratt?

# DEKALB COUNTY POLICE DEPARTMENT

## AUTO THEFT UNIT

PHONE NUMBER (404) 294-2036 FAX NUMBER (404) 294-2881

TO: TODD SMITH

FROM: DET. FITZPATRICK

Comments:

**AUTO THEFT, METRO ATLANTAS FAVORITE  
GROUP PARTICIPATION SPORT!!**



Long/State Farm  
SF1 00376

## INCIDENT REPORT

SA GA0440200		CASE NUMBER 05-023612	
INCIDENT TYPE		COUNTS	INCIDENT CODE
LEFT BY TAKING 16-3-2		1	DKFD
JLEN VEHICLE RECOVERED		1	NONE
THEFT BY TAKING AUTO 16-8-2		1	DKFD
INCIDENT LOCATION		LOC CODE	
6400 FAIRINGTON RD LITHONIA GA		481	
INCIDENT DATE		STRANGER TO STRANGER	
02/19/2005		1 OWN	
TIME 09:30		2 NO	
TO 02/19/2005		3 HANDS/FIST, ECT.	
COMPLAINANT		WEAPON TYPE	
LONG, MARTIN		1 KNIFE	
ADDRESS		2 CUTTING TOOL	
2752 CAROLINE DR MILLBROOK AL 36054		3 OTHER	
VICTIM'S NAME		PHONE NUMBER	
LONG, MARTIN		334-290-0344	
RACE SEX AGE		BUSINESS PHONE	
B M 38		334-290-0588	
ADDRESS		EMPLOYER OR OCCUPATION	
2752 CAROLINE DR MILLBROOK AL 36054		UNKNOWN OR NOT STATED	
CENSUS TRACT		RACE SEX DATE OF BIRTH	
STUDENT? YES NO		HEIGHT WEIGHT HAIR	
NAME UNKNOWN		OFFENSE CODE	
WANTED ADDRESS		OFFENSE/ARREST	
GA		JURY	
WARRANT CHARGES		1 CITY	
ARREST		2 COUNTY	
TOTAL NUMBER ARRESTED		3 STATE	
0		4 OUT OF STATE	
APPEAR AT OR HEAR OFFENSE SCENE		5 UNKNOWN	
YES NO		DATE OF OFFENSE	
NO		02/19/2005	
TAGN/VEH		STOLEN	
STATE AL		YEAR	
VIN 1G1YY22G0Y5132554		RECOVD YEAR	
MAKE CHEVROLET		MAKE	
MODEL CORVETTE		STYLE	
COLOR BLUE		INSURED BY	
MOTOR SIZE (CID)		TRANS	
AUTO		MAN	
NAMES		ADDRESS	
PHONE NUMBER		PROPERTY RECOVERY	
VEHICLES		THEFT/RECOVERY	
STOLEN \$18,000.00		2	
RECOVERED \$10,000.00		DATE OF THEFT	
CLOTHING		02/19/2005	
STOLEN \$1,760.00		OFFICE EQUIP.	
RECOVERED		TV, RADIO, ETC	
FIREARMS		HOUSEHOLD GOODS	
STOLEN \$150.00		TOTAL	
RECOVERED		\$41,080.00	
CONSUMABLE GOODS		\$10,000.00	
LIVESTOCK		OTHER	
OTHER		\$1,100.00	
TOTAL		\$41,080.00	
RECOVERED		\$10,000.00	
GCIC ENTRY		WARRANT	
MISSING PERSONS		VEHICLE	
ARTICLE		BOAT	
GUN		REQUIRE	
VEHICLES		DID INVESTIGATION INDICATE THAT THIS INCIDENT WAS DRUG-RELATED?	
YES NO		IF YES PLEASE INDICATE THE TYPE OF DRUG(S) USED BY OFFENDER	
1-AMPHETAMINE		2-BARBITURATE	
3-COCAINE		4-HALLUCINOGEN	
5-HEROIN		6-OPION	
7-METHAMPHETAMINE		8-SYNTHETIC NARCOTIC	
9-UNKNOWN		U-UNKNOWN	
REQUIRED DATA FIELDS FOR CLEARANCE REPORT		CLEARED BY ARREST	
EXCEPTIONALLY CLEARED		UNFOUNDED	
DATE OF CLEARANCE		ADULT	
JUVENILE		REPORT DATE	
02/19/2005		NARRATIVE TITLE: INITIAL REPORT	
Date Entered: 2/19/2005 11:17:42 AM		Long/State Farm	
SF1 00374		REPORTING OFFICER	
C A WIMBERLY		NUMBER	
2370		APPROVING OFFICER	
NUMBER		NUMBER	



DEKALB COUNTY POLICE DEPARTMENT  
 GA0440200  
 Date/Time: 2/19/2005 9:30:18 AM  
 e Number: 05-023512  
 Option: 7  
 Officer Name/ID: C A WIMBERLY/2378  
 Printed: 3/4/2005 5:03:38 PM

## Narrative: Page 2

TOKE TO VICTIM MARTIN LONG WHO ADVISED AN UNKNOWN SUSPECT STOLE HIS 2000 CHEVROLET CORVETTE UNKNOWN ALABAMA TAG. MR LONG SAID HE PARKED HIS VEHICLE IN THE PARKING LOT OF COUNTRY HEART INN & SUITES EARLIER THIS DATE AND WHEN HE RETURNED HIS VEHICLE WAS GONE. THE VEHICLE WAS NOT PLACED ON NCIC. MR LONG WAS ADVISED TO CONTACT US WHEN HE HAD EITHER THE CORRECT REGISTRATION OR VEHICLE IDENTIFICATION NUMBER FOR THE VEHICLE.

Narrative Title: INITIAL REPORT  
 Date Entered: 2/26/2005 1:37:05 AM

ON 2/25/2005 (FRIDAY) I RESPONDED TO CLIFTON SPRINGS MANOR AND JAYNES VALLEY DR IN RESPONSE TO AN ABANDONED VEHICLE. UPON ARRIVAL, I OBSERVED A GRAY CHEVROLET CORVETTE THAT WAS MISSING ITS T-TOP ROOF AND THE SEATS. WHEN I RAN THE VIN, THE VEHICLE CAME BACK STOLEN OUT OF DEKALB COUNTY POLICE DEPARTMENT. THE VEHICLE WAS CONFIRMED BY OPERATOR CARRIE. THE VEHICLE WAS IMPOUNDED TO TOP

Narrative Title: SUPPLEMENTAL NARRATIVE  
 Date Entered: 3/2/2005 12:39:53 PM

VICTIM - MARTIN LONG ADDED INFORMATION TO 05 023612. ACCORDING TO MR. LONG THE FOLLOWING ITEMS WERE IN HIS VEHICLE WHEN IT WAS STOLEN: A 3/4-LENGTH MENS BLACK LEATHER JACKET VALUED AT \$250.00, A DVD PLAYER VALUED AT \$160.00, A 45 CALIBUR AUTOMATIC PT145 TAURUS FIREARM, SERIAL #NWD52402 VALUED AT \$350.00, \$5000.00 CASH (CENTER CONSOLE), 3 MENS SUITES AND 2 MENS PANTS SUITES VALUED AT \$1500.00, 4 PAIRS MENS SHOES VALUED AT \$1100.00, 4 GOLD MENS BRACELETS VALUED AT \$2500.00, 3 GOLD MENS RINGS VALUED AT \$1200.00, AND 1 SILVER MENS WATCH WITH DIAMONDS AROUND THE BAND VALUED AT \$1000.00.

Long/State Farm  
 SF1 00375

MARTIN O. LONG

Plaintiff

v.

CSX TRANSPORTATION INC

Defendant

February 3, 2005

File No. 8566

## SETTLEMENT STATEMENT

Total Amount of Settlement

\$ 265,000.00

Less Attorney's Fees  
(25.00000%)

\$ 66,250.00

Client Share of Settlement

\$ 198,750.00

Distribution of Client's Share of Settlement:

\$ 198,750.00

- 1 LESS RRB LIEN FOR SICKNESS BENEFITS
- 2 LOAN FROM AMSOUTH BANK OF ALABAMA

\$ 16,942.00

\$ 6,239.01

Amount Due Client

\$ 175,568.99

Long/State Farm  
SF1 00620



# CreditXpert Score Analysis

Credit Score Report For: LONG, MARTIN ONEAL

Report Date: 2005/03/28

This report is based on a Credit Report obtained from Experian



## Glossary of Terms

### **Score Summary**

On a scale of 350 to 850 your Score is **651**

Your credit score is considered **Fair/Good**

Percentile: Your credit score is better than **30%** of US Consumers

### **Score Analysis**

#### Background

Your credit scores are based on the information in your credit bureau reports. The majority of CreditXpert Credit Scores(tm) are between 350 and 850. The higher your credit scores, the better. With a higher credit score, you are more likely to be eligible for the best credit card and loan offers, including terms and conditions, such as interest, fees, and benefits. Keep in mind that when lenders evaluate a credit application, credit scores are not the only factor they use in making their decision. They usually ask for additional information (such as income and monthly payments) to determine your ability to repay the loan.

#### Summary

Currently, your credit score will make it difficult for you to get the best offers from lenders, especially for credit cards. Be prepared to pay higher fees and interest rates and/or to make a deposit or down payment. Also, you may not be able to get high credit limits and loan amounts.

#### Explanation

There are both positive and negative factors that influence your credit score. The most important factors of each kind are listed below, in their order of importance. Remember, these factors vary in how strongly they impact your credit score. For example, if you have a very high credit score, the negative factors in your analysis are likely to have a small impact. The same is true for positive factors if you have a very low credit score.

Negative Factors: Here are the top factors that lower your score:

Long/State Farm  
SF1 00689

#### Payment history

Summary: You were late with your payments or were derogatory on at least one account in the past 12 months.

Explanation: This lowers your score. Any history of late payments (including missed



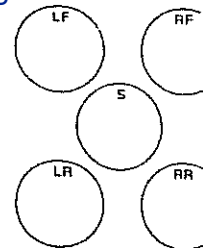
Pr d method of payment: CASH ☐ CHECK ☐ CREDIT CARD ☐  
 Sho Big 10 Tires save replaced parts for your inspection or possession? Yes ☐ No ☐  
 Storage charges start accruing 3 working days after notice of completion of work.  
 Daily storage charge is \$15.00. Date of notification: \_\_\_\_\_

Name and phone number of person who may authorize repair work if so designated by customer.  
 Name \_\_\_\_\_ Phone # \_\_\_\_\_

Big 10 Tires is not responsible for loss by fire or theft or any other cause beyond our control.

Date work to be completed: \_\_\_\_\_

Mileage	Mos.	Mileage	Mos.
6,000	6	55,000	55
12,000	12	60,000	60
24,000	24	65,000	65
35,000	35	70,000	70
40,000	40	75,000	75
45,000	45	80,000	80
50,000	50		



\*This charge represents costs and profits to the motor vehicle repair facility for miscellaneous shop supplies and waste disposal. [s. 559.904(4)]

The State of Florida requires a \$1.00 fee to be collected for each new tire sold in the state [s. 403.718], and a \$1.50 fee to be collected for each new or remanufactured battery sold in the state [s. 403.7185].

BIG 10 TIRE #81  
 1749 EAST MAIN STREET

INVOICE #: 5026983

PAGE: 1

PRATTVILLE, AL  
 36056

TIME CLOSED: 15:29:15

334/361-9608

CUSTOMER: LONG, MARTIN

1

HILLBROOK, AL

36054

HOME: 334/290-8344 0 VEHICLE: 2000 CHEVY VETTE

SALESMAN: 09792

LICENSE: AL

AL MILEAGE: 70804

INVOICE DATE: 02/18/05

DUE: 02/18/05

PRODUCT	LCT	DESCRIPTION	QUANTITY	PRICE	EXTENSION
AL ...	0	THRUST ANGLE ALIGNMENT	1	89.99	89.99
MECH#: 6744					
202-9539					
CP3RD	0	TIE ROD END / RIGHT OUTER - NEW	1	103.13	103.13
CL3	0	TIE ROD END LABOR	1	58.50	58.50
MECH#: 6744					
SHOPFEE	0	SHOP MATERIALS FEE *		10.06	10.06

MERCHANDISE: 103.13

LABOR: 148.49

OTHER: 10.06

SALES TAX: 8.77

INVOICE TOTAL: 270.45

\*\*\*\*\*THIS IS A REPRINTED INVOICE\*\*\*\*\*

CASH

270.45

Long/State Farm  
 SF1 00749



PLEASE READ CAREFULLY. CHECK ONE OF THE STATEMENTS BELOW AND SIGN.

I UNDERSTAND THAT UNDER STATE LAW I AM ENTITLED TO A WRITTEN ESTIMATE IF MY BILL EXCEEDS \$100.00.

☐ I REQUEST A WRITTEN ESTIMATE.

☐ I DO NOT REQUEST A WRITTEN ESTIMATE AS LONG AS THE REPAIR COSTS DO NOT EXCEED \$ \_\_\_\_\_

THE SHOP MAY NOT EXCEED THIS AMOUNT WITHOUT MY WRITTEN OR ORAL APPROVAL.

☐ I DO NOT REQUEST A WRITTEN ESTIMATE. SIGNED \_\_\_\_\_ DATE \_\_\_\_\_

I hereby authorize the above service to be performed, including the sublet work, with the necessary materials. I also grant permission to operate equipment for testing and inspection. Big 10 Tires uses flat and hourly rates to calculate charges. An express mechanic's lien is acknowledged to secure the amount of repairs. I understand that lug nuts must be re-torqued after 50 miles and checked periodically thereafter.

Thanks for shopping Big 10

SIGNED \_\_\_\_\_

DATE \_\_\_\_\_

# BIG 10 TIRES

& Automotive Center

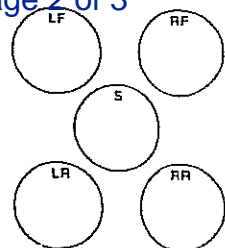
Method of payment: CASH ☐ CHECK ☐ CREDIT CARD ☐  
 Would Big 10 Tires save replaced parts for your inspection or possession? Yes ☐ No ☐  
 Storage charges start accruing 3 working days after notice of completion of work.  
 Daily storage charge is \$15.00. Date of notification: \_\_\_\_\_

Name and phone number of person who may authorize repair work if so designated by customer.  
 Name \_\_\_\_\_ Phone # \_\_\_\_\_

Big 10 Tires is not responsible for loss by fire or theft or any other cause beyond our control.

Date work to be completed: \_\_\_\_\_

Mileage	Mos.	Mileage	Mos.
6,000	6	55,000	55
12,000	12	60,000	60
24,000	24	65,000	65
35,000	35	70,000	70
40,000	40	75,000	75
45,000	45	80,000	80
50,000	50		



\*This charge represents costs and profits to the motor vehicle repair facility for miscellaneous shop supplies or waste disposal. [s. 559.904(4)]

The State of Florida requires a \$1.00 fee to be collected for each new tire sold in the state [s. 403.718], and a \$1.50 fee to be collected for each new or remanufactured battery sold in the state [s. 403.7185].

BIG 10 TIRE #81  
 1749 EAST MAIN STREET  
 PRATTVILLE, AL 36056  
 334/361-9608  
 CUSTOMER: LONG, MARTIN  
 1  
 1 MILLBROOK, AL 36054  
 HOME: 334/290-0344 0 VEHICLE: 2000 CHEVY VETTE  
 SALESMAN: 07547 LICENSE: AL AL MILEAGE: 70000  
 INVOICE DATE: 02/10/05 DUE: 02/10/05

INVOICE #: 5013190

PAGE: 1

TIME CLOSED: 15:59:02

PRODUCT	LCT	DESCRIPTION	QUANTITY	PRICE	EXTENSION
DISCTIRE	0	275 40 18 FIREHAWK SZ50EP RF	2	320.00	640.00
ADF	0	ALABAMA TIRE DISPOSAL TAX	2	1.00	2.00
VLVSTH	0	VALVE STEM-EACH NEW	2	2.99	5.98
TB2	0	LIFETIME WHEEL BALANCE	2	11.99	23.98
STD	0	SCRAP TIRE DISPOSAL CHARGE	2	1.50	3.00
Registration: Serial# NOMOUNTED		Quantity	1	Warranty Period	0
Registration: Serial# NOMOUNTED		Quantity	1	Warranty Period	0
		MERCHANDISE:		645.98	
		LABOR:		23.98	
		OTHER:		5.00	
		SALES TAX:		55.08	
		INVOICE TOTAL:		730.04	
*****THIS IS A REPRINTED INVOICE*****					
CASH				730.04	

Long/State Farm  
 SF1 00750

PLEASE READ CAREFULLY. CHECK ONE OF THE STATEMENTS BELOW AND SIGN.  
 I UNDERSTAND THAT UNDER STATE LAW I AM ENTITLED TO A WRITTEN ESTIMATE IF MY BILL EXCEEDS \$100.00.  
☐ I REQUEST A WRITTEN ESTIMATE.  
☐ I DO NOT REQUEST A WRITTEN ESTIMATE AS LONG AS THE REPAIR COSTS DO NOT EXCEED \$\_\_\_\_\_  
 THE SHOP MAY NOT EXCEED THIS AMOUNT WITHOUT MY WRITTEN OR ORAL APPROVAL.  
 I DO NOT REQUEST A WRITTEN ESTIMATE. SIGNED \_\_\_\_\_ DATE \_\_\_\_\_

I hereby authorize the above service to be performed, including the sublet work, with the necessary materials. I also grant permission to operate equipment for testing and inspection. Big 10 Tires uses flat and hourly rates to calculate charges. An express mechanic's lien is acknowledged to secure the amount of repairs. I understand that lug nuts must be re-torqued after 50 miles and checked periodically thereafter.

Thanks for shopping Big 10 SIGNED \_\_\_\_\_ DATE \_\_\_\_\_

# BIG 10 TIRES

& Automotive Center

Case 2:05-cv-00116-WHT-CSC Document 35-18

Filed 05/31/2007 Page 3 of 3

Preferred method of payment: CASH ☐ CHECK ☐ CREDIT CARD ☐  
Big 10 Tires save replaced parts for your inspection or possession? Yes ☐ No ☐  
Storage charges start accruing 3 working days after notice of completion of work.  
Daily storage charge is \$15.00. Date of notification: \_\_\_\_\_

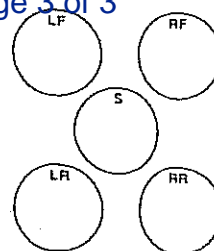
Name and phone number of person who may authorize repair work if so designated by customer.

Name \_\_\_\_\_ Phone # \_\_\_\_\_

Big 10 Tires is not responsible for loss by fire or theft or any other cause beyond our control.

Date work to be completed: \_\_\_\_\_

Mileage	Mos.	Mileage	Mos.
6,000	6	55,000	55
12,000	12	60,000	60
24,000	24	65,000	65
35,000	35	70,000	70
40,000	40	75,000	75
45,000	45	80,000	80
50,000	50		



\*This charge represents costs and profits to the motor vehicle repair facility for miscellaneous shop supplies or waste disposal. [s. 559.904(4)]

The State of Florida requires a \$1.00 fee to be collected for each new tire sold in the state [s. 403.718], and a \$1.50 fee to be collected for each new or remanufactured battery sold in the state [s. 403.7185].

BIG 10 TIRE #81  
1749 EAST MAIN STREET

INVOICE #: 5013219

PAGE: 1

PRATTVILLE, AL

TIME CLOSED: 16:08:41

36066

334/361-9508

CUSTOMER: LONG, MARTIN

1

1

MILLBROOK, AL

36054

HOME: 334/290-0344

0 VEHICLE: 2000 CHEVY VETTE

SALESMAN: 07547

LICENSE: AL

AL MILEAGE: 70000

INVOICE DATE: 02/10/05

DUE: 02/10/05

PRODUCT	LCT	DESCRIPTION	QUANTITY	PRICE	EXTENSION
RE	0	245 45 17 FIREHAWK EZ50EP RF	2	250.00	500.00
DF	0	ALABAMA TIRE DISPOSAL TAX	2	1.00	2.00
IB2	0	LIFETIME WHEEL BALANCE	2	11.99	23.98
STD	0	SCRAP TIRE DISPOSAL CHARGE	2	1.50	3.00
Registration: Serial#	NOMOUNTED	Quantity	1	Warranty Period	0
Registration: Serial#	NOMOUNTED	Quantity	1	Warranty Period	0

MERCHANDISE: 500.00

LABOR: 23.98

OTHER: 5.00

SALES TAX: 42.67

INVOICE TOTAL: 571.65

\*\*\*\*\*THIS IS A REPRINTED INVOICE\*\*\*\*\*

CASH

571.65

Long/State Farm  
SF1 00751

PLEASE READ CAREFULLY. CHECK ONE OF THE STATEMENTS BELOW AND SIGN.

I UNDERSTAND THAT UNDER STATE LAW I AM ENTITLED TO A WRITTEN

ESTIMATE IF MY BILL EXCEEDS \$100.00.

☐ I REQUEST A WRITTEN ESTIMATE.

☐ I DO NOT REQUEST A WRITTEN ESTIMATE AS LONG AS THE REPAIR COSTS DO NOT EXCEED \$\_\_\_\_\_.

THE SHOP MAY NOT EXCEED THIS AMOUNT WITHOUT MY WRITTEN OR ORAL APPROVAL.

☐ I DO NOT REQUEST A WRITTEN ESTIMATE. SIGNED \_\_\_\_\_ DATE \_\_\_\_\_

I hereby authorize the above service to be performed, including the sublet work, with the necessary materials. I also grant permission to operate equipment for testing and inspection. Big 10 Tires uses flat and hourly rates to calculate charges. An express mechanic's lien is acknowledged to secure the amount of repairs. I understand that lug nuts must be re-torqued after 50 miles and checked periodically thereafter.

Thanks for shopping Big 10

SIGNED \_\_\_\_\_

DATE \_\_\_\_\_





- ☐ State Farm Mutual Automobile Insurance Company  
☐ State Farm Fire and Casualty Company  
☐ State Farm County Mutual Insurance Company of Texas  
☐ State Farm Indemnity Company

RECEIVED

APR 07 2005

SIU

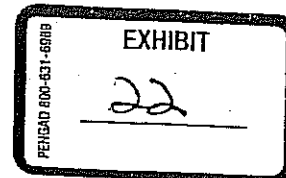
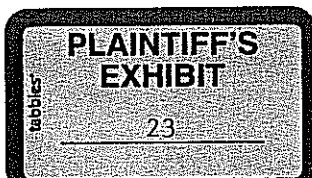
Barcode Only

Claim Number 01-6596-564

## AFFIDAVIT OF VEHICLE THEFT

1. Name of Insured MARTIN O'LONG Name of Owner MARTIN O' LONG  
 Address 2752 CARDINE DR. Home Phone (334) 290-0344  
 Date of Birth 8/13/68 Marital Status: ☒ Married ☐ Single No. of Dependents \_\_\_\_\_  
 Social Security No. \_\_\_\_\_ (Optional) Driver's License No. 5415781  
 Occupation UNEMPLOYED  
 Employer's Name \_\_\_\_\_  
 Address \_\_\_\_\_ Phone \_\_\_\_\_
2. Date of Theft 2/18/05 Time 7:00 ☒ A.M. ☐ P.M.  
 Make of Vehicle CHEVROLET Year 2000 Model CORVETTE Body Type COUPE Color SILVER  
 Vehicle ID # 1G1YY22G9Y5132584 License Plate # B18DS State AL  
 Certificate of Title # \_\_\_\_\_ If none, why? \_\_\_\_\_  
 Number of cylinders 8 H.P. or C.I. or Liter \_\_\_\_\_ Odometer reading \_\_\_\_\_  
 Was vehicle locked? ☒ Yes ☐ No Were keys left in vehicle? ☐ Yes ☒ No  
 Was vehicle equipped with anti-theft device? ☒ Yes ☐ No  
 Amount for which you are making claim \$ PAID 25,000<sup>00</sup>  
 Specific location from which vehicle was taken 5400 FAIRINGTON Rd. Lithonia GA  
 Reason vehicle was left at this location RELAXING / SLEEPING  
 Name and address of person who left auto at this location MARTIN O' LONG 2752 CARDINE DR  
Millbrook, AL (36054) Their driver's license no. 5415781  
 When did you last see your vehicle? Date 2/18/05 Time 9:00 ☐ A.M. ☒ P.M.  
 Name and address of others who were present \_\_\_\_\_
- When was the theft discovered? Date 2/19/05 Time 7:00 ☒ A.M. ☐ P.M.  
 Who made the discovery? MARTIN O' LONG  
 When was theft reported to police? Date 2/19/05 Time 7:00 ☒ A.M. ☐ P.M.  
 Name and Location of Police Station # 404-294-2512 2000

Long/State Farm  
SF1 00757



Police Officer's name and badge # C. A. Wimberly # 2078  
 Police Case # 05-023612 Did police make any arrest or have any suspects? I. DON'T KNOW  
 Has vehicle been recovered? ☒ Yes ☐ No Where? ATLANTA, GA When? \_\_\_\_\_  
 Who recovered the vehicle? DECATUR COUNTY Condition \_\_\_\_\_  
 Has vehicle been damaged during the past three years? ☐ Yes ☒ No If so, give location \_\_\_\_\_  
 type of damage \_\_\_\_\_, amount of damage \$ \_\_\_\_\_, and date \_\_\_\_\_  
 Were repairs made? ☐ Yes ☐ No ☐ Partial If so, were they completed? ☐ Yes ☐ No  
 Who made the repairs? \_\_\_\_\_  
 Name and address of insurance company who paid claim damages, if any: \_\_\_\_\_

Any other claims in the last three years on this or any other vehicle? ☒ Yes ☐ No

Any other vehicles in your household? ☒ Yes ☐ No

Name of insurance company and agent on other vehicles (SAME INSURANCE CO.)

Your prior insurance company and agent \_\_\_\_\_

Any homeowners claims within the past 6 months with State Farm? ☒ Yes ☐ No

With any other carrier? NO

List all items stolen:

BRAND NAME	MODEL	SERIAL #	DATE OF PURCHASE	PURCHASE PRICE	NAME & ADDRESS OF SELLER
<u>CHECK INVENTORY SHEET</u>					

\* If original equipment, so state and omit serial numbers. If not original equipment, furnish receipts of all items stolen.

3. Vehicle Equipment (Check if vehicle had any of the following)

☒ Radio AM    ☒ Power Steering    ☐ Vinyl Roof    ☒ Cruise Control    Tires:    Transmission:  
☒ AM/FM    ☒ Power Brakes    ☒ Tinted Glass    ☒ Tilt Wheel    ☐ WWW    ☒ Automatic  
☒ Stereo    ☒ Power Locks    ☐ Mag Wheels    ☒ Sun/Moon Roof    ☐ Radial    ☐ Standard  
☐ Tape Deck    ☒ Power Windows    ☐ T-Tops    ☐ Air Conditioning    ☒ Special    ☐ Auto Stick  
☒ Compact Disk    ☒ Power Seats    ☐ Other:    ☐ Console  
☐ CB Radio    Type \_\_\_\_\_ Cost \$ \_\_\_\_\_ Date Installed \_\_\_\_\_  
☐ Purchased From: \_\_\_\_\_

4. Vehicle Condition

Paint    ☐ Fair    ☐ Good    ☒ Excellent  
 Transmission    ☐ Fair    ☐ Good    ☒ Excellent  
 Engine    ☐ Fair    ☐ Good    ☒ Excellent  
 Body    ☐ Fair    ☐ Good    ☒ Excellent

Other distinguishing features: (dents, decals, trailer hitch, interior, etc.)

Long/State Farm  
SF1 00758

5. Name and address of service station/age: N/A  
 Who performs routine maintenance service? N/A  
 Date last serviced N/A  
 Who performs State MV inspection? N/A  
 Date last inspected N/A
6. Date car purchased 2/04/15 ☐ New ☒ Used ☒ Purchase price \$ \_\_\_\_\_  
 Trade-in \_\_\_\_\_ Allowance \$ \_\_\_\_\_  
 Seller Dealer/Individual Name and Address (CITY AUTO SALES) BIRMINGHAM, AL  
 How did you learn the car was for sale? INTERNET  
 How was the car paid for? ☒ Cash ☐ Check  
 If financed, name and address of finance company \_\_\_\_\_  
 \_\_\_\_\_  
 Account # \_\_\_\_\_ Balance Due \$ \_\_\_\_\_ Loan Terms \_\_\_\_\_ Months \_\_\_\_\_  
 Date of last loan payment made \_\_\_\_\_  
 Is account past due? ☐ Yes ☒ No How long? \_\_\_\_\_  
 Are keys in your possession? ☒ Yes ☐ No Ignition key # \_\_\_\_\_ Trunk key# \_\_\_\_\_  
 Do you have other theft insurance? ☐ Yes ☒ No Policy # \_\_\_\_\_  
 Name of insurance company STATE FARM  
 Was this a rebuilt wreck? ☐ Yes ☒ No If yes, name of rebuilder \_\_\_\_\_  
 Was it a recovered theft? ☐ Yes ☐ No If yes, date of theft \_\_\_\_\_
7. Are the answers you have given true to the best of your knowledge and belief? ☒ Yes ☐ No

Witness \_\_\_\_\_ Policyholder Marta O'Leary  
 Address \_\_\_\_\_ (Signature)

SUBSCRIBED AND SWORN TO BEFORE ME this \_\_\_\_\_ day of \_\_\_\_\_, (Year) \_\_\_\_\_  
 In \_\_\_\_\_ County, \_\_\_\_\_  
 Notary Public \_\_\_\_\_ My commission expires: \_\_\_\_\_

Long/State Farm  
 SF1 00759



## VALERIE WARE TEMPLE

<p>1 IN THE UNITED STATES DISTRICT COURT  2 FOR THE MIDDLE DISTRICT OF ALABAMA  3 NORTHERN DIVISION  4 CASE NO.: 2:06cv816-MHT  5  6 MARTIN O. LONG,  7 Plaintiff,  8 V.  9 STATE FARM FIRE AND CASUALTY COMPANY,  10 Defendants.  11  12  13 STIPULATIONS  14  15  16 IT IS STIPULATED AND AGREED by and  17 between the parties, through their respective  18 counsel, that the deposition of VALERIE WARE  19 TEMPLE may be taken before STACEY L. JOHNSON,  20 Commissioner, at the Offices of Beers, Anderson,  21 Jackson, Patty, Van Heest &amp; Fawal, 250 Commerce  22 Street, Suite 100, Montgomery, Alabama, on the  23 27th day of March, 2007.</p> <p style="text-align: right;">Page 1</p>	<p>1 EXAMINATION BY: PAGE NUMBER:  2 Mr. Newman.....5-47  3 Mr. Burge.....47-48  4  5 EXHIBITS:  6 Defendant's Exhibit 19.....11  7 (letter to Valerie Ware Temple from State  8 Farm)  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23</p> <p style="text-align: right;">Page 3</p>
<p>1 IT IS FURTHER STIPULATED AND AGREED  2 that the signature to and the reading of the  3 deposition by the witness is hereby waived, the  4 deposition to have the same force and effect as  5 if full compliance had been had with all laws  6 and rules of Court relating to the taking of  7 depositions.  8 IT IS FURTHER STIPULATED AND AGREED  9 that it shall not be necessary for any  10 objections to be made by counsel to any  11 questions except as to form or leading  12 questions, and that counsel for the parties may  13 make objections and assign grounds at the time  14 of trial, or at the time said deposition is  15 offered in evidence, or prior thereto.  16 IT IS FURTHER STIPULATED AND AGREED  17 that the notice of filing of the deposition by  18 the Commissioner is waived.  19  20  21  22  23 INDEX</p> <p style="text-align: right;">Page 2</p>	<p>1 APPEARANCES  2 FOR THE PLAINTIFF, MARTIN O. LONG:  3 BURGE &amp; BURGE  4 F. Tucker Burge  5 2001 Park Place North  6 Suite 850  7 Birmingham, Alabama 35203  8  9 FOR THE DEFENDANT, STATE FARM FIRE AND CASUALTY  10 COMPANY:  11 HELMSING, LEACH, HERLONG, NEWMAN &amp; ROUSE  12 James B. Newman  13 (NEWMJ8049)  14 jbn@helmsinglaw.com  15 150 Government Street  16 Suite 2000  17 Mobile, Alabama 36602  18 (251) 432-5521  19  20  21 ALSO PRESENT:  22 MR. MARTIN O. LONG  23</p> <p style="text-align: right;">Page 4</p>

1 (Pages 1 to 4)

1 I, STACEY L. JOHNSON, a CSR of Montgomery,  
2 Alabama, and Notary Public for the State of  
3 Alabama at Large, acting as Commissioner,  
4 certify that on this date, as provided by the  
5 Federal Rules of Civil Procedure and the  
6 foregoing stipulation of counsel, there came  
7 before me at 250 Commerce Street, Suite 100,  
8 Montgomery, Alabama, beginning at 2:14 p.m.,  
9 VALERIE WARE TEMPLE, witness in the above cause,  
10 for oral examination, whereupon the following  
11 proceedings were had:  
12 VALERIE WARE TEMPLE,  
13 the witness, after having been first duly sworn  
14 to speak the truth, the whole truth, and nothing  
15 but the truth, testified as follows:  
16 EXAMINATION  
17 BY MR. NEWMAN:  
18 Q You go by Ms. Ware? Ms. Ware Temple?  
19 A Ware Temple.  
20 Q Ware Temple is the way you say it?  
21 A Yes.  
22 Q Ms. Ware Temple, my name is Jim Newman,  
23 and I'll be asking you some questions today.

Page 5

1 A Yes.  
2 Q All right. Would you state your name,  
3 please?  
4 A Valley Ware Temple.  
5 Q And how are you employed?  
6 A With Dr. Chung, Tai Chung, orthopedic  
7 surgeon.  
8 Q And you've been with him for sometime,  
9 haven't you?  
10 A Yes. Seven years.  
11 Q And do you live here in Montgomery?  
12 A Yes.  
13 Q And how long have you lived here?  
14 A All my life.  
15 Q What's your home address?  
16 A Why do I need that? Why do I need to  
17 use that address?  
18 Q Well, let me ask you, is it 6936 Winton  
19 Blount Boulevard?  
20 A No.  
21 Q Is that your office address?  
22 A Yes, it is.  
23 Q Well, the reason that I ask you is so

Page 7

1 This relates to a case between State Farm Mutual  
2 Automobile Insurance Company and Mr. Martin  
3 Long. You know Mr. Martin Long; correct?  
4 A Yes.  
5 Q And what I'll do is I'll ask you the  
6 questions, and then you can answer them. If I  
7 ask something that you don't understand or if  
8 it's confusing, what I want you to do to make  
9 sure we keep everything straight is stop me and  
10 say ask it again. Okay?  
11 A Okay.  
12 Q If you answer it, I'm going to assume  
13 that you answered what I asked. Is that fair  
14 enough?  
15 A Yes.  
16 MR. BURGE: Object to the form.  
17 Q And you're doing a good job, and  
18 I'll -- just one other I'll ask you is if you'll  
19 help me -- and I'll try to work on it, too -- is  
20 lots of times, we all have a habit of saying  
21 uh-huh and huh-uh instead of yes and no. And  
22 it's hard for her to take down an uh-huh and an  
23 huh-uh. So we'll work on that together.

Page 6

1 I'll be able to identify you and make sure that  
2 you're the person who lives at that address.  
3 A Okay. Would you be calling that  
4 address? Would you be contacting me -- I want  
5 to be contacted at that address.  
6 Q I understand that.  
7 A Okay.  
8 Q All right. What's your address?  
9 A 13100 Edna, E-D-N-A, Brake, B-R-A-K-E,  
10 Lucas Drive, Montgomery 36117.  
11 Q And I know that you have a cell phone.  
12 What is the number on that cell phone?  
13 A (334) 318-8482.  
14 Q Okay. And who is that service with?  
15 A Verizon Wireless.  
16 Q Have you always had Verizon service?  
17 A I've been having it for several years.  
18 Whenever I started out, it was like maybe -- I  
19 don't know how many years -- but I started off  
20 with Alltel. And that's been 16, 17 years ago.  
21 Something like that.  
22 Q Okay. When you went to Atlanta with  
23 Mr. Long, were you using Verizon then?

Page 8

2 (Pages 5 to 8)

## VALERIE WARE TEMPLE

1 A Yes. Same number.

2 Q Okay. And there was a time when you  
3 helped Mr. Long get a cell telephone, or he got  
4 it under your name?

5 A Exactly.

6 Q Why did you do that?

7 A Because we could talk. The reason for  
8 that is because I was married then. I'm married  
9 now. And so that I could contact him easily and  
10 it would be cheap for me to do it.

11 Q I mean, why did you get him a cell  
12 phone as opposed to him getting his own cell  
13 phone?

14 A Because I could easily get it under my  
15 account. I don't know if he couldn't get one at  
16 the time. But I could easily get one under my  
17 account.

18 Q Okay. So it was easy for you to get  
19 one?

20 A Yes. Just to put -- say I want the  
21 phone from them and they would give him a phone  
22 and a number.

23 Q Okay. So you went and -- who paid for

Page 9

1 the cell phone bills for that telephone bill?

2 A He did.

3 Q Okay.

4 A I initially told him that's what I  
5 wanted to do.

6 Q So how did he pay for them? Did he pay  
7 directly the phone company, or did he pay you  
8 and then you paid the phone company?

9 A He paid me and then he started -- he  
10 started paying me first. Then initially he went  
11 to paying Verizon, and that was in, I think,  
12 Prattville. I'm not for sure.

13 Q When he paid you, did he pay you in  
14 cash or did he pay you in check?

15 A Cash.

16 Q Okay. Now, have you been contacted by  
17 anyone from State Farm concerning Mr. Long's  
18 Corvette? I think there's a letter that --

19 A I don't know -- I spoke with someone.  
20 I don't know if it was Attorney Tucker.

21 Q Mr. Burge?

22 A Yeah. Or someone else. I know I was  
23 contacted.

Page 10

1 Q Did you receive -- let me show you this  
2 letter that we'll mark as Defendant's Exhibit  
3 19. And that was sent to your -- I think the  
4 office address there.

5  
6 (Whereupon, Defendant's Exhibit  
7 Number 19 was marked for identification  
8 and copy of same is attached hereto.)  
9

10 Q Did you receive a copy of that at  
11 sometime?

12 A No.

13 Q You never got that?

14 A No.

15 Q So you've never seen that before?

16 A No.

17 Q And you say you think that you were  
18 contacted by someone?

19 A Yes.

20 Q Do you know how long after the time  
21 y'all were in Atlanta that this happened, that  
22 you were contacted?

23 A No, I don't know.

Page 11

1 Q Was it within a matter of weeks, or was  
2 it within a matter of months?

3 A I don't know. I mean, I don't want to  
4 say anything concrete, but I know I was  
5 contacted.

6 Q Okay. But you don't remember who you  
7 talked to?

8 A No. I know I talked to this attorney,  
9 but anyone else, I can't remember.

10 Q Well, did you talk to this attorney  
11 soon after this happened or was it sometime  
12 after this happened?

13 A It was -- I want to say it was shortly  
14 after it had happened, but I couldn't tell you  
15 how long.

16 Q Okay. Did he come and see you --

17 A No.

18 Q -- or did you talk on the phone?

19 A No. I spoke on the phone with him.

20 Q So except for Mr. Burge, who you spoke  
21 to on the phone and who apparently -- did he  
22 identify himself on the phone to you?

23 A Yes.

Page 12

3 (Pages 9 to 12)



1 Q Except for Mr. Burge, you don't recall  
2 talking to anyone else?  
3 A Not that I can remember, no.  
4 Q And you say you did not get the letter  
5 that I've marked here as Exhibit 19?  
6 A No.  
7 Q All right. And that letter is  
8 addressed to Valerie Ware Temple, 6936 Winton  
9 Blount Boulevard, Montgomery, Alabama 36117. Is  
10 that the correct address for you?  
11 A Yes.  
12 Q Okay. How long have you known Martin  
13 Long?  
14 A He was a patient of Dr. Chung's. I  
15 don't know what year. But I've been knowing him  
16 for a few years. I can't tell you exactly how  
17 many years.  
18 Q How did you get to know him?  
19 A He was a patient of Dr. Chung's. He  
20 come into the office.  
21 Q Okay. Are you still seeing Mr. Long?  
22 A No, not seeing him like having a  
23 relationship with him. I talk to him on the

Page 13

1 phone occasionally.  
2 Q When was the last time that y'all  
3 ceased your relationship, or when did you cease  
4 your relationship, other than just as -- talking  
5 on the phone as friends?  
6 A I want to say around, I guess, about  
7 last year sometime.  
8 Q Okay. This incident with the Corvette  
9 happened in February of 2005.  
10 A Okay.  
11 Q Can you put it in perspective how long  
12 after that it was?  
13 A It was -- I know it was sometime in  
14 2006.  
15 Q Okay.  
16 A I couldn't tell you what month.  
17 Q Okay. Did he know you were married?  
18 A Yes.  
19 MR. BURGE: Object to the form.  
20 Q Did he know who you were married to?  
21 A He didn't know him, but he knew his  
22 name. I guess he knew his name. I mentioned  
23 it.

Page 14

1 Q Did he know his last name?  
2 A Yeah, because he knew my last name.  
3 Q How do you know he knew your last name?  
4 A Because I would mention it. I mean, I  
5 used Ware or Temple.  
6 Q You used either one?  
7 A Yes. At my workplace, I use Ware  
8 because of -- actually, I hadn't got it changed  
9 over to my Social Security card. So I just use  
10 both. And on my driver's license, I have Ware  
11 Temple on it.  
12 Q Okay. But you're sure that he knew  
13 your name?  
14 A Yes.  
15 Q Last name?  
16 A Yes.  
17 Q Okay.  
18 A I'll put it like this. He knew one of  
19 them.  
20 Q Okay. When you went over to Atlanta in  
21 February of '05, he knew that you were -- he  
22 knew your name was either Valerie Ware or  
23 Valerie Temple or else Valerie Ware Temple, one

Page 15

1 of those three?  
2 A Exactly.  
3 Q Okay. Do you know how many times you  
4 had been out with him before going over to  
5 Atlanta in February of 2005?  
6 A Several times.  
7 Q Just so you and I are on the same  
8 wavelength, February 2005 is the time you go  
9 over there and the Corvette is gone.  
10 A Uh-huh.  
11 Q All right. Had you been over to  
12 Atlanta before?  
13 A Yes.  
14 Q Okay. With Mr. Long?  
15 A No, not with Mr. Long.  
16 Q Never had been to Atlanta with Mr. Long  
17 before?  
18 A No, not before that time.  
19 Q Had you ever gone over to see Donald  
20 Ware?  
21 A Yes.  
22 Q Did you ever go over there to see your  
23 brother, Donald Ware, with Mr. Long?

Page 16

4 (Pages 13 to 16)

1 A No.  
2 Q Okay.  
3 A Not before that incident.  
4 Q Huh?  
5 A Not before that incident.  
6 Q That's what I'm saying, before February  
7 of 2005?  
8 A No.  
9 Q Never had done that?  
10 A No.  
11 Q And had you ever gone over there with  
12 your -- to Atlanta or Lithonia or anywhere in  
13 that area with Mr. Long prior to -- that's  
14 before -- February of 2005?  
15 A No.  
16 Q Is that a no?  
17 A No.  
18 Q On the occasion of February of 2005 --  
19 and, again, that's the time that the Corvette is  
20 gone. Okay. That's the time -- who went to  
21 Atlanta on that weekend?  
22 A It was myself, Martin, and my two  
23 brothers and Felicia.

Page 17

1 A Just to visit my brother, but I used  
2 the excuse that I was -- to my husband that I  
3 was going to a hair show. But we just went just  
4 to -- just to go.  
5 Q You went over there to see your brother  
6 Donald Ware?  
7 A Yes.  
8 Q He lives in Lithonia, Georgia?  
9 A Yes.  
10 Q And, again, you told your husband that  
11 you were going over there for another reason, a  
12 hair show?  
13 A Exactly.  
14 Q Now, are you a hair dresser or anything  
15 like that?  
16 A Yes.  
17 Q Do you do that on the weekend or  
18 something?  
19 A I just do it part-time. I don't do  
20 it -- I used to do it. I don't do it anymore.  
21 Q Okay. What vehicle did you ride  
22 over -- were there three cars that went over to  
23 Atlanta?

Page 19

1 Q Okay. What about LaToya?  
2 A She was a girl that my brother had met.  
3 Q Did she go that weekend?  
4 A No.  
5 Q So on that weekend, it was just you,  
6 your brother Ricky?  
7 A Yes. Sandy.  
8 Q Your brother Sandy?  
9 A Yes.  
10 Q Felicia?  
11 A Yes.  
12 Q Which one was she with?  
13 A She was with Ricky.  
14 Q Felicia?  
15 A Uh-huh.  
16 Q You and Martin?  
17 A Yes.  
18 Q And what was the purpose of y'all going  
19 to -- I guess you went to Lithonia really, the  
20 Atlanta area?  
21 A Yes.  
22 Q What was the purpose of going over  
23 there?

Page 18

1 A Yes.  
2 Q And you rode over there with Mr. Long?  
3 A Yes.  
4 Q And then anybody else in the car with  
5 y'all?  
6 A No.  
7 Q And then Ricky rode over there. Was  
8 there anybody in car with him?  
9 A Felicia.  
10 Q And then Sandy rode over there. He had  
11 his own car. Was there anybody with him?  
12 A No.  
13 Q Did y'all caravan, stay together?  
14 A Yes, going up there we did.  
15 Q And when you got over there, what did  
16 you do?  
17 A When we first got there, we had went to  
18 my brother's -- well, we went to the motel to  
19 check in, and then we left -- once we checked  
20 in, we left there and went to my brother  
21 Donald's house.  
22 Q Okay.  
23 A And we went from there to eat. We all

Page 20

5 (Pages 17 to 20)

1 went. And then we went back to his house and  
2 left from there back to the motel.  
3 **Q Did you and Martin leave Donald's house**  
4 **and go back to the motel without the rest of**  
5 **them?**  
6 A Yes.  
7 **Q Okay. Where did they go?**  
8 A I think they went out. I don't know  
9 where -- what place they went to, but they went  
10 out to a club.  
11 **Q About what time did you get back to the**  
12 **hotel? About nine or ten? Is that safe, or is**  
13 **that...**  
14 A Yeah. I'm not concrete on it, but it  
15 was that night after eating. So I don't know  
16 exactly what time.  
17 **Q Okay. And whose -- can you tell me the**  
18 **cell -- do you know Ricky's cell phone number?**  
19 A Yes.  
20 **Q What is it?**  
21 A 541-0045.  
22 **Q And how about Sandy? Do you know his?**  
23 A 538 -- I think it's 6529.

Page 21

1 **Q And then how about Donald? Do you know**  
2 **his?**  
3 A No. He's gotten it changed since  
4 then. I don't know it by heart.  
5 **Q Do you know a cell phone that's**  
6 **294-2113?**  
7 A Not that I can recall.  
8 **Q Okay. Did Mr. Long -- after this**  
9 **happened, after this weekend in February of**  
10 **2005, did Mr. Long call you to ask you for**  
11 **Donald's telephone number so that he could call**  
12 **Donald? Do you remember that?**  
13 A No, I don't remember.  
14 **Q Don't remember that?**  
15 A No.  
16 **Q All right. When you went back to the**  
17 **motel after leaving Donald's house, did you see**  
18 **anybody that night? Did you see either Ricky,**  
19 **Sandy, or Felicia again that night?**  
20 A No.  
21 **Q So after y'all come back to the motel,**  
22 **y'all go to bed, you don't see anybody else that**  
23 **night?**

Page 22

1 A No.  
2 **Q Okay. And do you recall where Mr. Long**  
3 **parked his car?**  
4 A Yes.  
5 **Q Okay. Where?**  
6 A He parked it right outside the motel  
7 going up in the motel. It was kind of off to  
8 the, I guess you'd say, left-hand side. After  
9 we found out the car was stolen, we realized  
10 that he was parked under a camera.  
11 **Q Right. Did he say anything that night**  
12 **before y'all went to bed about being parked**  
13 **underneath the camera?**  
14 A No, not that I can remember.  
15 **Q Do you remember that being something**  
16 **that y'all became aware of after the car was**  
17 **stolen?**  
18 A No, no. The reason for that is because  
19 I told him to pull the tape to see who might  
20 have stole the car.  
21 **Q You told who that?**  
22 A The guys at the front counter. I don't  
23 know any names. But I was like, well, just pull

Page 23

1 the camera, just pull the tape on it. So I  
2 wasn't aware that the camera was right -- facing  
3 the car, aiming toward the car.  
4 **Q You didn't know that -- when did you**  
5 **tell the people at the front desk to pull the**  
6 **tape?**  
7 A That morning. That morning.  
8 **Q Were you the first one to tell them**  
9 **that?**  
10 A No. I don't think so. I'm not for  
11 sure. But we all -- after realizing we all was  
12 talking about it. And he got upset about it  
13 because they said -- first they said initially  
14 something about they got to wait on the manager  
15 or supervisor, whoever was over the complex.  
16 Then they was saying he called -- I don't know  
17 what time it was -- that it wasn't working or  
18 the -- I don't know. Something. It was all  
19 kind of stories that conflicting.  
20 **Q When did you first become aware that**  
21 **there was a camera outside?**  
22 A After --  
23 **Q That morning?**

Page 24

6 (Pages 21 to 24)



1 A That morning, yes.  
2 Q Do you know when Mr. Long became aware  
3 of that?  
4 A The same -- I don't know if he knew or  
5 not. I can't say. But I know we was all  
6 talking about it that morning after the car was  
7 stolen.  
8 Q Okay. Y'all didn't talk about the  
9 camera that night, did you? The night before?  
10 A No. Not that I can remember, no.  
11 Q Okay. Do you remember how many sets of  
12 car keys Mr. Long had with him that weekend?  
13 A No. I know he had one set because, of  
14 course, he was driving with it, but that's it.  
15 Q Did he ever say anything to you about  
16 another set of keys?  
17 A No, not to my knowledge he didn't.  
18 Q How did you find out that the car was  
19 missing?  
20 A That morning sometime -- it was  
21 early -- Felicia called me on my cell phone and  
22 she was like, where are y'all. I was like, in  
23 the room asleep. She was like, no, you're not.

Page 25

1 I said, yes, we are. She said, well, the car is  
2 gone. I was like what. And she said, the car  
3 is gone. And that's at the time I woke Martin  
4 Long up. And I was like, Felicia said the car  
5 is gone, and she said she see glass on the  
6 ground where the car was parked. And we woke up  
7 and we all went -- well, Felicia was over at the  
8 Wal-Mart. She said she had left and went to the  
9 Wal-Mart. So my brother Ricky and Sandy and  
10 Martin, we all went downstairs.  
11 Q Okay. And so she apparently had gotten  
12 up early to go to the Wal-Mart?  
13 A Yes.  
14 Q Had she gone and come back?  
15 A She called me -- I can't remember if  
16 she had came -- I knew she had came --  
17 eventually came back over there, but at what  
18 time, I don't know.  
19 Q Okay. How did she know where the car  
20 had been parked?  
21 A Well, they had went out that night,  
22 so...  
23 Q Who had?

Page 26

1 A My brother Ricky, Felicia, and Sandy.  
2 They had went out that night, so I'm pretty sure  
3 they might have seen where it was parked at.  
4 Q You think they saw when they pulled  
5 back in?  
6 A I guess. I'm pretty sure they did.  
7 Q Did she tell you that?  
8 A No, she did not say. She just told me  
9 that the car was gone and glass was...  
10 Q Okay. And you don't know whether she  
11 had gone to the Wal-Mart and come back or  
12 whether she was just...  
13 A Well, she called me and she said she  
14 was at the Wal-Mart.  
15 Q At the Wal-Mart?  
16 A Yes, she said she was at the Wal-Mart,  
17 which was just right across the street.  
18 Q And then you went down to -- downstairs  
19 with Mr. Long and your two brothers?  
20 A Yes.  
21 Q Is that right?  
22 A Yes.  
23 Q Okay. And you say that you remember

Page 27

1 asking the shift manager or the desk clerk about  
2 the surveillance camera?  
3 A Yes.  
4 Q About the film?  
5 A After finding out it was one there.  
6 Q Yeah. After you saw that there was one  
7 there, you then asked him about it?  
8 A Yes.  
9 Q And this would have been how long after  
10 the time that Felicia called you that morning?  
11 A Less than minutes, I guess. It's like  
12 ten minutes. Nothing -- run downstairs and  
13 everybody's looking and, you know, just  
14 wondering and everything like that. And that's  
15 when it was asked.  
16 Q Okay. And what did -- you say he  
17 initially told you what about the surveillance  
18 camera? That's you'd have to wait on the  
19 manager?  
20 A He initially said you'll have to wait  
21 before we can pull the tape, I guess. And then  
22 it came back the story that he wouldn't be in.  
23 It was so many stories. Then they said it

Page 28

7 (Pages 25 to 28)

1 wasn't anything in it, a tape in it. And then I  
2 heard it was not working. It was like so many  
3 stories.

4 **Q Several stories about the camera?**

5 A Yes.

6 **Q Did you ever talk to the manager -- I'm**  
7 **not talking about the desk clerk -- but the**  
8 **manager about the camera?**

9 A No.

10 **Q Do you know whether anyone else did?**

11 A No. Martin wanted to speak -- at that  
12 time, he wanted to speak with him. And I'm not  
13 sure if he even came to the -- came over. Yeah,  
14 he wanted to speak to him. He was real upset.  
15 He was upset with him because he was like, you  
16 know, how can y'all have a camera with no thing  
17 in it, with no tape.

18 **Q No film?**

19 A Yeah, exactly. So he was -- he was  
20 pissed off at him.

21 **Q Do you remember who -- was it reported**  
22 **to the police?**

23 A Yes.

Page 29

1 **Q Do you remember who did that?**

2 A My -- Martin -- I don't know who called  
3 first. I'm pretty sure it was Martin had called  
4 the police station, because he was like, I got a  
5 gun in that car and I want to make sure all that  
6 stuff gets reported. And then it was taking so  
7 long, and my brother Sandy had called. And then  
8 I think that's when we found out that the police  
9 don't -- or the police don't come out to stuff  
10 like that. You just have to call and report it.

11 **Q Now, tell me, so who made the initial**  
12 **call to the police it's your understanding?**

13 A I'm not for sure, but I think it was  
14 Martin.

15 **Q You think it was Martin?**

16 A Yes.

17 **Q And then you think Sandy talked to them**  
18 **as well at some point?**

19 A Yes, because it was taking so long for  
20 them to come out.

21 **Q Okay. Now, do you know what Martin**  
22 **had -- what did he take into the room that night**  
23 **before the car was missing?**

Page 30

1 A Well, he took some clothes out and some  
2 shoes, and some of the stuff we left in there  
3 because I left some stuff in the car.

4 **Q Okay. What did you leave in there?**

5 A I left a portable DVD player, some  
6 clothes and shoes. We got what we could carry  
7 up and then we said we'd come down the next  
8 morning.

9 **Q The portable DVD player is it one of**  
10 **those ones that plugs into the cigarette lighter**  
11 **and then it's got a frequency that runs the --**  
12 **is it a DVD, or is it a CD player?**

13 A It's a portable DVD, TV. It plays CDs  
14 and DVDs.

15 **Q Is it set up to work through a car? Is**  
16 **it one where you plug into the cigarette**  
17 **lighter?**

18 A Yes.

19 **Q Where did you get that?**

20 A Circuit -- I don't know.

21 **Q Best Buy?**

22 A Best Buy. Yes, Best Buy.

23 **Q How much did you pay for it?**

Page 31

1 A It was -- I don't know. Two -- I don't  
2 know exactly how much it was.

3 **Q How long had you had it?**

4 A Not long. Not long.

5 **Q A couple of months?**

6 A Yes.

7 **Q Did he have a portable DVD player in**  
8 **there as well, or was yours the only one in the**  
9 **car?**

10 A I don't know what he had in there as  
11 far as that, but I just know I seen some clothes  
12 and shoes and jewelry and money.

13 **Q No. I'm talking about the DVD player.**  
14 **Was it the only DVD player in the car?**

15 A I don't know. I know I had mine in  
16 there.

17 **Q Okay. Where was yours? In the front**  
18 **seat?**

19 A I didn't play it, so I left it in the  
20 back, in the back of the car.

21 **Q In the hatchback part?**

22 A Yeah. Because only two people could  
23 get in the car actually. You know, it's like

Page 32

8 (Pages 29 to 32)

1 right -- I could reach it, but it was like right  
2 in the back but -- the center, like right here  
3 (indicating).  
4 **Q Okay. And so you lost what, now?**  
5 **Clothes -- some clothes, some shoes, and a**  
6 **portable DVD player?**  
7 **A Yes.**  
8 **Q And it plays CDs and DVDs?**  
9 **A Yes.**  
10 **Q Is it one of those where you can fix it**  
11 **where it will play the CDs through the radio**  
12 **speakers?**  
13 **A No.**  
14 **Q It won't do that?**  
15 **A I don't think it will do that. Because**  
16 **I ended up purchasing another one. But I don't**  
17 **think that one -- I didn't have it but so long.**  
18 **Really I got it for work just to watch movies**  
19 **when I was at work and didn't have anything to**  
20 **do.**  
21 **Q Okay. What do you know that**  
22 **Mr. Long -- what did you see that belonged to**  
23 **Mr. Long that he left in the car that night, not**

Page 33

1 **what he told you, but what you actually saw?**  
2 **A I actually seen clothes, jewelry,**  
3 **money, shoes.**  
4 **Q Okay. Clothes, jewelry, money, and**  
5 **shoes?**  
6 **A Yes.**  
7 **Q Okay. And do you know how many clothes**  
8 **he had?**  
9 **A No. But he brought quite a few, but I**  
10 **don't know exactly what was -- how much he had**  
11 **left.**  
12 **Q How about the jewelry?**  
13 **A He had like rings, bracelets. I**  
14 **couldn't tell you how many because it was just**  
15 **like sitting down in the...**  
16 **Q Where were the rings and the bracelets**  
17 **located?**  
18 **A Sitting down in the little, not an**  
19 **ashtray, but I guess a little thing -- a**  
20 **compartment in the car.**  
21 **Q You know between the driver and the**  
22 **passenger there's a little thing they call a**  
23 **console?**

Page 34

1 **A Uh-huh.**  
2 **Q Is that where the rings and the**  
3 **bracelets were?**  
4 **A No. I seen it. It was like sitting**  
5 **open so you could see. It was all sitting**  
6 **there, not in the console.**  
7 **Q Was it between the driver and**  
8 **passenger?**  
9 **A Yes.**  
10 **Q Okay. On the flat part of the console?**  
11 **A I think it had a little compartment**  
12 **that I remember, like a little -- like something**  
13 **like a cup holder, like a section down --**  
14 **something like that.**  
15 **Q Okay. But it was the device, if you**  
16 **will, that divides the passenger and the driver**  
17 **seat?**  
18 **A Uh-huh.**  
19 **Q Okay? You agree with that? That's**  
20 **where the rings were?**  
21 **A It was in between. It was in between.**  
22 **Q In between the two -- the passenger and**  
23 **the driver seat?**

Page 35

1 **A Yes.**  
2 **Q Okay. And that's where the jewelry**  
3 **was?**  
4 **A Yes.**  
5 **Q What about the money?**  
6 **A It was sitting like folded -- I guess**  
7 **it was sitting like folded beside the jewelry**  
8 **that was --**  
9 **Q Was it out where you could see it?**  
10 **A Not so much. I knew he had some there,**  
11 **but not like just laying out so you could see**  
12 **it. But it was like folded. How much he had, I**  
13 **couldn't tell you.**  
14 **Q You don't know how much he had with**  
15 **him.**  
16 **A No.**  
17 **Q Like if I looked in the car from the**  
18 **outside, could I see the jewelry?**  
19 **A No, I don't think you could. I don't**  
20 **think so.**  
21 **Q Could I see the money?**  
22 **A No, I don't think so.**  
23 **Q Now, do you know he also had a gun in**

Page 36

9 (Pages 33 to 36)



1 there?  
2 A He told me he had a gun.  
3 Q Did you know it at the time?  
4 A Not that I recall. Not that I recall.  
5 Q Do you know where he kept the gun?  
6 A Well, normally when I ride with him  
7 before then, I knew he kept it like underneath  
8 him.  
9 Q Under the seat?  
10 A I don't know if it was exactly under  
11 the seat or just sitting down on the floor. I'm  
12 assuming that's where he had it. I'm not for  
13 sure. But I know he mentioned that he had one.  
14 Q What was the money in? Was it just  
15 loose, or was it in something?  
16 A It was like folded.  
17 Q Well, folded in half? The money folded  
18 in half?  
19 A Folded like more than half.  
20 Q Like rolled up?  
21 A Not in a roll. More like a fold, so  
22 you can take it and just stick it down.  
23 Q Was it inside anything, the money?

Page 37

1 A No.  
2 Q Like a wallet?  
3 A No.  
4 Q And envelope?  
5 A No. Not that I recall, no.  
6 Q So as you recall, the money was out in  
7 the open? It wasn't in anything?  
8 A Not that I recall.  
9 Q Okay. Did Mr. Long tell you where he  
10 had gotten that jewelry, the bracelets and the  
11 rings?  
12 A No. I'm assuming he had it -- already  
13 had it.  
14 Q No. I mean, did he tell you where he  
15 bought it?  
16 A No.  
17 Q Okay.  
18 A No.  
19 Q Now, you told me earlier that you don't  
20 recall talking to anyone about this. And, as I  
21 understand it, you're not saying you didn't talk  
22 to someone, but you're saying the conversation  
23 that you remember is the one that you had with

Page 38

1 Mr. Burge; is that correct?  
2 A Yes.  
3 Q Okay. When did that conversation take  
4 place?  
5 A It was at my workplace. At my  
6 workplace. I don't know how long after we had  
7 gotten back and started back to work. I don't  
8 know how long it was.  
9 Q Was it within the first six or seven  
10 months, you think?  
11 A Oh, of course.  
12 Q Okay. And what did y'all talk about?  
13 A Basically what had happened.  
14 Q What did you tell him?  
15 A The same story, what time we got down  
16 there and what did we do.  
17 Q Did you tell him anything different  
18 than what you've told me today?  
19 A No. Not to my knowledge, no.  
20 Q Okay. How many times have you talked  
21 to Mr. Burge? Just that once?  
22 A I think only just that one time that I  
23 remember.

Page 39

1 Q Okay. Now, before this deposition was  
2 given, did you talk to anyone? Before today,  
3 have you talked to anyone about -- other than  
4 Mr. Burge about what happened in Atlanta? Let  
5 me be a little bit better with that question. I  
6 could tell that was kind of puzzling you, so let  
7 me go back. Have you ever talked to either of  
8 your brothers about what happened there in  
9 Atlanta?  
10 A We talked about it. It's like -- like  
11 unbelief. Like we can't believe that the car  
12 was stolen. More like that. Not like specific,  
13 like we went down there and this, that, and the  
14 other. We didn't talk anything like that. We  
15 just talked about we can't believe that it  
16 happened, somebody stole the car.  
17 Q And that would be all three brothers  
18 that you've talked to like that?  
19 A Yes. Not in like -- not like in a  
20 group. Just like, you know, maybe he called me  
21 whenever I can talk because at the time I was  
22 married. We might just like -- we couldn't  
23 believe that the car was stolen.

Page 40

10 (Pages 37 to 40)

1 Q So other than that type of  
2 conversation, have you talked to your brothers  
3 about specifics, like when the things happened,  
4 who called the police, when it was discovered  
5 that the car was gone, who notified who, when  
6 the calls were made, what was in the car?  
7 Anything like that?

8 A No, no. No more than that morning of.  
9 My brother was like -- asked Martin what did you  
10 have in the car. So he was like -- and I know  
11 he mentioned the gun. He was like make sure you  
12 report that. He was like, yeah, I got to report  
13 that because he didn't...

14 Q Tell me what you remember about  
15 conversations that morning that it happened.

16 A I know it was a lot of cussing going  
17 on. I remember Martin was real upset. He was  
18 upset about it. And I think I might have been  
19 the one that told him make sure you call your  
20 insurance company. And after we did that, we  
21 went to purchase -- well, not to purchase, but  
22 to the rental place to get a car so we could  
23 ride in. But basically we just couldn't -- we

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1 was just outdone about the car was stolen.

2 Q Do you remember conversations between  
3 either of your brothers and Martin about what  
4 was in the car? You said you remember talking  
5 about the car.

6 A I don't know which brother it was. He  
7 was like, well, what did you have in the car.  
8 And that's when he -- I think I remember him  
9 telling some stuff at that time -- that morning  
10 that he had like left clothes, shoes. And I was  
11 like, yeah, I left some clothes and my DVD  
12 player in there, also. And money. He -- like I  
13 said, he mentioned the gun that was in the car.

14 Q Okay. Do you remember them ever saying  
15 anything to Martin about making sure he claimed  
16 that on his insurance or anything like that?

17 A No, no.

18 Q Okay. Do you remember him calling  
19 about his -- calling the insurance company?

20 A Yes, I remember. He -- I want to say I  
21 had told him -- I remember saying -- telling him  
22 to call the insurance company. And I think --  
23 at that time, I think he might have -- I'm not

Page 42

1 for sure -- I think he might have had to call  
2 home to get the insurance company's number.

3 Q Okay.

4 A And at the time he was like -- I know  
5 he was positioned -- leaning across the bed, and  
6 he was on the phone talking to the insurance  
7 company, and my brother was like in the door --  
8 in the room close by the door. We was all  
9 standing there.

10 Q Do you remember about when that was?

11 A That morning after we went down and we  
12 came back up to the room.

13 Q Were the police called first, or was  
14 the insurance company called first?

15 A I'm pretty sure the police was called  
16 first.

17 Q And how long a period of time was it  
18 before -- between the time that you were told by  
19 Felicia that the car was missing and the time  
20 that Martin was talking to the insurance  
21 company? How long upstairs on the bed leaning  
22 over -- how long a period of time was that?

23 A Okay. I don't know how long, but

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1 enough time for Felicia to call me, jump up, put  
2 clothes on, didn't brush teeth, didn't wash  
3 face, anything. Ran downstairs, knocked on my  
4 brothers' -- told them the car was gone -- or  
5 stolen because the window was broke out. We  
6 went downstairs, talked -- look around, talked  
7 to the guys, and they was going on about  
8 everything. Come back to the room. And I think  
9 at the time that's when he called the police.

10 Q Do you know how long that took? You  
11 told me --

12 A I don't know. It didn't take no time  
13 at all. It wasn't like it was a long -- like  
14 hours or an hour. You know, it wasn't -- it  
15 could have been like less maybe -- less than I  
16 can say 15 or 30 minutes. Less than that.

17 Q Okay. Have you ever been in any  
18 lawsuits yourself before?

19 A No.

20 Q And how about crimes? Have you ever  
21 been convicted of a crime?

22 A No.

23 Q Did you ever discuss with Martin his

Page 44

11 (Pages 41 to 44)

1 financial situation before he got the  
2 settlement? You're aware, of course, he got a  
3 settlement for an injury?

4 A I was aware of it. Never discussed  
5 any...

6 Q Did you ever talk about his financial  
7 situation before then?

8 A No.

9 Q Okay. And you were aware that he was  
10 married as well?

11 A Yes.

12 Q Again, what's your cell phone number?

13 A (334) 318-8482.

14 Q 8482?

15 A Yes.

16 Q When you were in Lithonia that weekend,  
17 did you call anybody about anything?

18 A Not that I remember.

19 Q Did you make any telephone calls?

20 A Not that I can remember.

21 Q Did you call one of your girlfriends?

22 A I don't know if I called one of my  
23 girlfriends and told them that the car was

Page 45

1 Q You just figured it was fine in the  
2 car?

3 A Yeah. I mean, I never mentioned  
4 anything about it, no.

5 Q Okay. Did you leave any jewelry in the  
6 car?

7 A No, not that I recall leaving any  
8 jewelry in the car.

9 Q Did you leave any money in the car?

10 A No, I didn't leave any money.

11 MR. NEWMAN: That's all I have. Thank  
12 you, ma'am.

13 EXAMINATION

14 BY MR. BURGE:

15 Q Were you with Mr. Long when he parked  
16 the car in the hotel parking lot that night?

17 A Yes.

18 Q Were you with him when the car was  
19 discovered to be gone the following morning?

20 A Yes.

21 Q Were you with him the whole time  
22 between those two points in time?

23 A Yes.

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1 missing or not. I could have, but I -- I'm not  
2 sure.

3 Q You don't recall?

4 A I probably could have called them, but  
5 I'm not for sure.

6 Q How long ahead of time had y'all  
7 planned this trip?

8 A I don't know because I was the one that  
9 initiated the trip. And I used -- like I said,  
10 I used the hair show for going up there and my  
11 brothers for an alibi.

12 Q Yes, I understand that.

13 A But I don't know how long.

14 Q How long ahead of time that you had  
15 planned to go?

16 A I guess it could have been like a month  
17 or a month and a half. I'm not for sure.

18 Q Did you ever talk to the police about  
19 this, you yourself?

20 A No.

21 Q Did you ever tell Mr. Long that he  
22 ought to take the money inside that night?

23 A No.

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1 MR. BURGE: Okay. Thank you.  
2  
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FURTHER DEPONENT SAITH NOT

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12 (Pages 45 to 48)



## VALERIE WARE TEMPLE

## 1 CERTIFICATE

2  
3 STATE OF ALABAMA )4  
5 COUNTY OF MONTGOMERY )  
6

7  
8 I hereby certify that the above and  
9 foregoing deposition was taken down by me in  
10 stenotype, and the questions and answers thereto  
11 were transcribed by means of computer-aided  
12 transcription, and that the foregoing represents  
13 a true and accurate transcript of the testimony  
14 given by said witness upon said hearing.

15 I further certify that I am neither of  
16 counsel, nor kin to the parties to the action,  
17 nor am I in anywise interested in the result of  
18 said cause.  
19

20  
21 -----  
21 STACEY L. JOHNSON, Certified  
22 Shorthand Reporter and  
22 Commissioner for the State of  
23 Alabama at Large.  
23

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**FELICIA FLOWERS**

<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE MIDDLE DISTRICT OF ALABAMA</p> <p>3 NORTHERN DIVISION</p> <p>4 CASE NO.: 2:06cv816-MHT</p> <p>5</p> <p>6 MARTIN O. LONG,</p> <p>7 Plaintiff,</p> <p>8 V.</p> <p>9 STATE FARM FIRE AND CASUALTY COMPANY,</p> <p>10 Defendants.</p> <p>11</p> <p>12</p> <p>13 STIPULATIONS</p> <p>14</p> <p>15</p> <p>16 IT IS STIPULATED AND AGREED by and</p> <p>17 between the parties, through their respective</p> <p>18 counsel, that the deposition of FELICIA FLOWERS</p> <p>19 may be taken before STACEY L. JOHNSON,</p> <p>20 Commissioner, at the Offices of Beers, Anderson,</p> <p>21 Jackson, Patty, Van Heest &amp; Fawal, 250 Commerce</p> <p>22 Street, Suite 100, Montgomery, Alabama, on the</p> <p>23 27th day of March, 2007.</p> <p>Page 1</p>	<p>1 INDEX</p> <p>2 EXAMINATION BY: PAGE NUMBER:</p> <p>3 Mr. Newman.....5-34</p> <p>4</p> <p>5 EXHIBITS:</p> <p>6 There were no exhibits marked to this</p> <p>7 deposition.</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>Page 3</p>
<p>1 IT IS FURTHER STIPULATED AND AGREED</p> <p>2 that the signature to and the reading of the</p> <p>3 deposition by the witness is hereby waived, the</p> <p>4 deposition to have the same force and effect as</p> <p>5 if full compliance had been had with all laws</p> <p>6 and rules of Court relating to the taking of</p> <p>7 depositions.</p> <p>8 IT IS FURTHER STIPULATED AND AGREED</p> <p>9 that it shall not be necessary for any</p> <p>10 objections to be made by counsel to any</p> <p>11 questions except as to form or leading</p> <p>12 questions, and that counsel for the parties may</p> <p>13 make objections and assign grounds at the time</p> <p>14 of trial, or at the time said deposition is</p> <p>15 offered in evidence, or prior thereto.</p> <p>16 IT IS FURTHER STIPULATED AND AGREED</p> <p>17 that the notice of filing of the deposition by</p> <p>18 the Commissioner is waived.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>Page 2</p>	<p>1 APPEARANCES</p> <p>2 FOR THE PLAINTIFF, MARTIN O. LONG:</p> <p>3 BURGE &amp; BURGE</p> <p>3 F. Tucker Burge</p> <p>4 2001 Park Place North</p> <p>4 Suite 850</p> <p>5 Birmingham, Alabama 35203</p> <p>5</p> <p>6</p> <p>7 FOR THE DEFENDANT, STATE FARM FIRE AND CASUALTY</p> <p>8 COMPANY:</p> <p>9 HELMSING, LEACH, HERLONG, NEWMAN &amp; ROUSE</p> <p>9 James B. Newman</p> <p>10 (NEWMJ8049)</p> <p>10 jbn@helmsinglaw.com</p> <p>11 150 Government Street</p> <p>11 Suite 2000</p> <p>12 Mobile, Alabama 36602</p> <p>12 (251) 432-5521</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>Page 4</p>

1 (Pages 1 to 4)

## FELICIA FLOWERS

1 I, STACEY L. JOHNSON, a CSR of Montgomery,  
2 Alabama, and Notary Public for the State of  
3 Alabama at Large, acting as Commissioner,  
4 certify that on this date, as provided by the  
5 Federal Rules of Civil Procedure and the  
6 foregoing stipulation of counsel, there came  
7 before me at 250 Commerce Street, Suite 100,  
8 Montgomery, Alabama, beginning at 9:57 a.m.,  
9 FELICIA FLOWERS, witness in the above cause, for  
10 oral examination, whereupon the following  
11 proceedings were had:

12 FELICIA FLOWERS,  
13 the witness, after having been first duly sworn  
14 to speak the truth, the whole truth, and nothing  
15 but the truth, testified as follows:

## 16 EXAMINATION

17 BY MR. NEWMAN:

18 Q Ms. Flowers, my name is Jim Newman, and  
19 I represent the insurance company. Mr. Burge  
20 represents Martin Long. And I'm going to be  
21 asking you some questions today, and if you  
22 don't understand my question, stop me and ask me  
23 to rephrase any questions you don't understand.

Page 5

1 A Okay.

2 Q I'd ask you to try to say your answers  
3 out loud and try to not say uh-huh and huh-uh so  
4 we can make sure it's either a yes or a no.

5 A Okay.

6 Q Okay. Okay is fine.

7 A Okay.

8 Q Or right or correct or anything like  
9 that. And if you do answer the questions, I'll  
10 assume that you understood them and you answered  
11 what I asked; fair enough?

12 A Yes.

13 Q Would you state your name, please?

14 A Felicia Shantell Flowers.

15 Q And are you employed?

16 A I am.

17 Q Where?

18 A Vintage Point Apartments.

19 Q What do you do there?

20 A I'm a leasing consultant.

21 Q Okay. How long have you been doing  
22 that?

23 A For a year.

Page 6

1 Q And how old are you?

2 A I'm 30.

3 Q Okay. Did you go to high school here  
4 in Montgomery?

5 A No. Well, actually, I went to Lanier  
6 High School. And then my father is a sheriff in  
7 Colorado. So like my senior year, I was a  
8 little bad girl so my mom booted me to my dad.

9 Q Went out to Colorado?

10 A Yes.

11 Q And then you came back after a year in  
12 Colorado?

13 A Yes. I graduated in Colorado and I  
14 came back.

15 Q Have you ever any -- gone to school any  
16 schooling after high school?

17 A No.

18 Q Tell me -- run through with me what  
19 your job history has been. I'm not looking for  
20 details, just what you did from the time you  
21 graduated from high school up until the  
22 present.

23 A Well, actually, I was married for four

Page 7

1 years and really didn't have to work.

2 Q Didn't work while you were married?

3 A No. Worked off and on at Lowe's, on  
4 base. That was pretty much it. And didn't work  
5 for a while. I was taking care of my kids. I  
6 have three. I'm a single mother. I was going  
7 through my little divorce and everything. And I  
8 started working at the post office. At the  
9 time, I had two kids. I didn't have three. And  
10 that's where I met Ricky Ware. And then after I  
11 stopped working at the post office, then I think  
12 I worked like for Glovis trying to -- these  
13 little temporary jobs. And then I finally got  
14 stable and I was with Vintage Point.

15 Q And that's where you are now?

16 A Uh-huh.

17 Q And what's the name of it again?

18 A Vintage Point Apartments.

19 Q And how long did you work at the post  
20 office?

21 A I was a casual, so it was like  
22 seasonal. Probably no more than about six  
23 months, six or seven months.

Page 8

2 (Pages 5 to 8)

## FELICIA FLOWERS

1 Q Casual means you kind of work  
2 part-time?  
3 A Seasonal.  
4 Q When it's a rush time?  
5 A Yeah, like Christmas help. That type  
6 thing.  
7 Q And you've got three children?  
8 A Yes.  
9 Q And how old are they?  
10 A Ten, six, and three.  
11 Q And was your husband's name Flowers, or  
12 have you taken your maiden name back?  
13 A I have always carried my maiden name.  
14 Q What is your ex-husband's name?  
15 A Phillip Hartwell.  
16 Q Is he still in the Montgomery area?  
17 A He is.  
18 Q Do you know what he's doing?  
19 A Dead beat.  
20 Q Is he paying the child support?  
21 A No.  
22 Q Okay. Felicia, what I want to first of  
23 all ask you is, we're going to be talking about

Page 9

1 apartments before then. We stayed there  
2 sometimes. It wasn't until we all took the trip  
3 together that we stayed in the hotel.  
4 Q Okay.  
5 A So that was really our first time  
6 staying in a hotel.  
7 Q Had you ever been to see Donald with  
8 Martin and Valerie?  
9 A No.  
10 Q This was the first time?  
11 A Yes.  
12 Q Never done it before?  
13 A Never.  
14 Q Okay. How long in advance had y'all  
15 planned to go over there?  
16 A Maybe a month. I mean, I really --  
17 it's -- to be honest with you, it's been some  
18 time ago, so I can't really give you an accurate  
19 time.  
20 Q When you went over there, did you take  
21 three cars?  
22 A Yes.  
23 Q And you were in the car with Ricky?

Page 11

1 that weekend, which was February the 19th, 20th,  
2 and 21st of 2005, Friday, Saturday, and Sunday  
3 of 2005. Before I ask you about that, though, I  
4 want to ask you about going over to Lithonia  
5 where Donald Ware was in the Atlanta area. Had  
6 you gone over there before that weekend?  
7 A Me and Ricky have.  
8 Q You and Ricky?  
9 A Yeah. We've made trips back and forth  
10 to Atlanta.  
11 Q About how many times before February  
12 19th do you think you had been over there? I'm  
13 not looking for exact numbers.  
14 A Okay. Around four or five. We go up  
15 there often.  
16 Q Okay. Do you still do that?  
17 A Uh-huh.  
18 Q Okay. And when you go over there, do  
19 you always stay in a motel or sometimes do you  
20 stay with Mr. Donald Ware?  
21 A Well, at first, Donald had moved -- he  
22 just moved into -- not too long ago been in that  
23 house that he's in. But he was in like some

Page 10

1 A Yes.  
2 Q And y'all were trailing each other or  
3 caravanning right, the three cars were?  
4 A Yes.  
5 Q And y'all got to the hotel about the  
6 same time?  
7 A Yes. Well, we actually didn't go to  
8 the hotel when we first got there. If I can  
9 remember correctly, we went to his brother's  
10 house, you know, to see his brother. Then we  
11 went to go get something to eat.  
12 Q And you didn't check in then?  
13 A Honestly, I don't remember how it  
14 actually went. I think we went and got  
15 something to eat, we went to go check in, and  
16 then we went to go see his brother. I'm not  
17 really sure how the events really actually  
18 went. But I know that I remember going to go  
19 something eat and I remember us checking in and  
20 going to see his brother.  
21 Q Did you go out to eat with his brother?  
22 A Yeah, we did.  
23 Q Was that when you went out to eat, or

Page 12

3 (Pages 9 to 12)



## FELICIA FLOWERS

1 did you go out to eat twice? Did you go out to  
2 eat when you got there and you went out to eat  
3 again with his brother?

4 A No. When we got there, we went to go  
5 get something to eat. And I believe -- I  
6 remember because his brother was there. And I  
7 remember -- it's funny because there was like a  
8 flying roach in the place and we were just all  
9 freaking out. So I remember we all were  
10 together.

11 Q Now, after you ate, you said you went  
12 back to his brother's house?

13 A Yes.

14 Q And then did you stay together, or did  
15 Valerie and Martin go back to the -- go to the  
16 hotel and y'all went out?

17 A Okay. The initial plan was we were  
18 going to go out.

19 Q Everybody?

20 A Yes. We were going to go out, but  
21 Marty and Val, they left. They said they were  
22 going to go back to the room. And so that's  
23 when me and Ricky and his brother, we went out.

Page 13

1 then, I guess, which is why you think maybe --

2 A We had already -- we had already  
3 checked in.

4 Q Okay. All right. When you came back  
5 at three or four -- did you see either Martin or  
6 Valerie any time between the time they left  
7 Donald's and the next morning?

8 A No.

9 Q All right. When y'all came in at three  
10 or four o'clock, did you see Martin's car at  
11 that time?

12 A You know, honestly I didn't even --

13 Q One way or another?

14 A I didn't really ever look for it.

15 Q Didn't look for it?

16 A No. We were just trying to get up to  
17 the room because we all had been drinking.

18 Q So you didn't really notice one way or  
19 another?

20 A No.

21 Q Do you remember today where y'all  
22 parked when you came in?

23 A I do. The -- okay. This is the hotel

Page 15

1 Q Where did y'all go?

2 A I can't remember the name of the club.  
3 It was a club.

4 Q And your best recollection now is that  
5 y'all had not checked in at the hotel at that  
6 time?

7 A I know -- we had.

8 Q You had?

9 A We had.

10 Q You're just not sure whether it  
11 happened before or after you went to his  
12 brother's house?

13 A I'm not sure. I can't -- honestly, I  
14 just can't remember.

15 Q About what time did you get in Saturday  
16 morning?

17 A From the club?

18 Q Yeah.

19 A I want to say maybe around three or  
20 four o'clock in the morning.

21 Q Pretty late?

22 A Uh-huh.

23 Q And you don't remember checking in

Page 14

1 (indicating). It's facing me. The front door  
2 is right here (indicating). They've got parking  
3 right there to the side to the right of it. You  
4 know, facing the front of the hotel to the right  
5 of it. We parked right there.

6 Q We've got this little diagram of --  
7 which was marked as 14, I think, to -- here we  
8 go. Looking at this diagram, which is 14, and  
9 you see where it says hotel here and then over  
10 here it says, you know, to the -- as you face  
11 the hotel to the right of it, it says parking  
12 lot?

13 A Uh-huh.

14 Q Is that where y'all would have been  
15 parked?

16 A The entrance is right here; correct?

17 Q Yeah.

18 A Yes. And then there's -- is this the  
19 street that leads you out of the --

20 Q Gee, I don't know. I know this is  
21 supposed to be the main drag over here  
22 (indicating) and the Wal-Mart is over here  
23 (indicating).

Page 16

4 (Pages 13 to 16)

## FELICIA FLOWERS

1 A Yeah, I know where the Wal-Mart's at.  
 2 If this is the front door (indicating) and  
 3 there's -- I mean, like time you come out,  
 4 there's like a little sidewalk and then there's  
 5 parking right there. If you're coming out the  
 6 front door it's right directly to your left.  
 7 Q Well, that would be where that is.  
 8 Okay. So your best recollection is that y'all  
 9 would have parked just out of the front door and  
 10 to the left?  
 11 A Uh-huh.  
 12 Q Can you just put an X above where you  
 13 think the -- where y'all parked?  
 14 A I know it was...  
 15 Q You think it was about the middle  
 16 spaces?  
 17 A Yeah.  
 18 Q And how about Sandy? Do you know where  
 19 Sandy parked?  
 20 A I have no idea.  
 21 Q You just know where y'all parked?  
 22 A Yes.  
 23 Q Okay. All right. Now, you got up

Page 17

1 early the next morning?  
 2 A I did.  
 3 Q Or did you even go to sleep that night?  
 4 A I did. I went to sleep. But I'm --  
 5 honestly, I'm not used to going to sleep next to  
 6 a man.  
 7 Q Yeah. Ricky said when he -- he was  
 8 still sleep when you got up?  
 9 A Yeah, he was.  
 10 Q And you went got up and did what?  
 11 A I went to Wal-Mart.  
 12 Q What did you do over there?  
 13 A Went shopping.  
 14 Q Did you buy anything?  
 15 A I did. I did. I think I bought -- I  
 16 know I bought some outfits, a couple of  
 17 outfits. And I want to say I -- yeah, I charged  
 18 them on my credit card, so I remember -- I  
 19 remember all of that.  
 20 Q Did you walk back? Did you walk over  
 21 to Wal-Mart?  
 22 A No. I drove.  
 23 Q You drove Ricky's car?

Page 18

1 A I did.  
 2 Q And so that's why you know where it was  
 3 parked, I guess?  
 4 A Uh-huh. I drove from the club.  
 5 Q You say yes. That's how you know where  
 6 it was parked; right?  
 7 A Yes, yes.  
 8 Q And then you were also the person who  
 9 had driven it back from the club?  
 10 A I did.  
 11 Q And you drove it to Wal-Mart and then  
 12 you drove it back?  
 13 A I did.  
 14 Q Okay. And when did you become aware  
 15 that Martin's car was not there?  
 16 A Well, because when I got ready to  
 17 leave, I didn't see the car.  
 18 Q When you left?  
 19 A Yes. When I got ready to go to  
 20 Wal-Mart. I was looking in the parking lot and  
 21 I didn't see the car, so I called his sister and  
 22 I was like where are y'all at. Because I just  
 23 assumed that they had -- I'm a breakfast

Page 19

1 person. I assumed that they went to breakfast.  
 2 She was like, we are in the room.  
 3 Q You called Valerie?  
 4 A Yeah, I did. She was like -- I said,  
 5 you're in the room. I said, the car is not out  
 6 there. I didn't see the car. I was like, you  
 7 know, did Marty go somewhere. She said, no.  
 8 She said, he's here in the bed with me. I said,  
 9 I didn't see his car out there. And so she was  
 10 like, stop playing. I was like, I'm for real; I  
 11 didn't see the car. That's whenever she said  
 12 she'll call me back. And they went, I guess --  
 13 I don't know what happened.  
 14 Q Did you tell them that the car had been  
 15 stolen?  
 16 A No, I didn't tell them that.  
 17 Q Did you tell them that you had found a  
 18 place where there was broken glass on the --  
 19 A I saw -- when I got back, I saw the  
 20 broken glass.  
 21 Q Did you tell them that on the  
 22 telephone?  
 23 A Huh-uh.

Page 20

5 (Pages 17 to 20)

## FELICIA FLOWERS

1 Q Okay. Is that a no?  
 2 A No.  
 3 Q So all you told them in the telephone  
 4 call was that you didn't see his car out there?  
 5 A I didn't see it.  
 6 Q You didn't ever say it's been stolen?  
 7 A No.  
 8 Q You didn't ever say I saw some broken  
 9 glass?  
 10 A No.  
 11 Q You didn't ever say I know where it was  
 12 parked and it's not there anymore?  
 13 A No. I mean, when we -- like I said,  
 14 when we initially checked in, like I said, I  
 15 don't know event for event, like was it before  
 16 or after we went to Donald's house, but I know  
 17 that he had -- when he parked, it was like to  
 18 the left. That's all I remember him backing  
 19 up. It was to the left. That's all I  
 20 remember.  
 21 Q But that was before y'all went to  
 22 Donald's; right?  
 23 A Right.

Page 21

1 Q So you don't know where he was parked  
 2 on this particular occasion?  
 3 A I don't.  
 4 Q Did you find out later where he said he  
 5 had been parked?  
 6 A Yeah.  
 7 Q And where was that?  
 8 A It was to the left.  
 9 Q Here we go. It's 14 again.  
 10 A See, I'm not understanding -- well,  
 11 okay. Yeah. Well, it was right there.  
 12 Q He said it was over here on the right,  
 13 and you said you were over here on the left.  
 14 A But I thought that the parking was kind  
 15 of catty-cornered but maybe it was straight. I  
 16 can't really remember. But, yeah, it was parked  
 17 that way.  
 18 Q But it looks like his car where he's  
 19 got it parked on 14 is on the other side of the  
 20 hotel from where yours was?  
 21 A Yeah. Correct.  
 22 Q Okay. Now, after you told Valerie that  
 23 you didn't see the car out there and the

Page 22

1 reason -- let me get this straight -- the reason  
 2 that you called was not to report the missing  
 3 car, but you called because you were looking for  
 4 them because you didn't see the car?  
 5 A Exactly.  
 6 Q You thought they were out to eat  
 7 somewhere?  
 8 A Yeah. Eating breakfast.  
 9 MR. BURGE: Without you.  
 10 THE WITNESS: Without me. Because I'm  
 11 a breakfast person.  
 12 Q So you called to find out. And then  
 13 what happened next? Did they come down into the  
 14 desk area, or did you go up to the room?  
 15 A I have no idea what happened because I  
 16 was still at Wal-Mart. I didn't come back right  
 17 away. I finished my shopping, and I talked to  
 18 Ricky.  
 19 Q Where did this telephone call take  
 20 place? Were you at Wal-Mart, or was this when  
 21 you came back?  
 22 A Which telephone call?  
 23 Q When you called Valerie to say where

Page 23

1 are y'all, were you --  
 2 A Where did it take place? I was in the  
 3 truck.  
 4 Q You were in the truck?  
 5 A Uh-huh.  
 6 Q At Wal-Mart?  
 7 A On my way to Wal-Mart.  
 8 Q That's when you first called?  
 9 A Uh-huh.  
 10 Q Okay. I got it. All right. And you  
 11 went on to Wal-Mart and shopped?  
 12 A Yeah, I did.  
 13 Q And then came back?  
 14 A Yes.  
 15 Q And where were they when you came back?  
 16 A When I -- I believe -- honestly, I  
 17 can't really remember. I believe that they were  
 18 down there in the front where the front desk is  
 19 talking to the Arab people.  
 20 Q The desk clerk?  
 21 A Yes.  
 22 Q And he was Middle Eastern somehow?  
 23 A Something like that.

Page 24

6 (Pages 21 to 24)

## FELICIA FLOWERS

1 Q Okay. Were you part of those  
2 conversations, or did you just look --

3 A No.

4 Q You just knew they were going on?

5 A Yeah. But I want to add if I can --

6 Q Sure.

7 A -- when I was in Wal-Mart, I was  
8 calling Ricky to let him know the car was -- you  
9 know, your sister is saying they were in the  
10 room and that I was telling her that the car  
11 wasn't there. He was on the other hand telling  
12 me that his sister ran across the hall to him to  
13 tell him that the car wasn't outside, I guess,  
14 after he realized it was gone.

15 Q Let's go over that again. Let's see if  
16 we can get that in sequence and explain that to  
17 me again. So you're on the phone -- you got on  
18 the phone in Wal-Mart. The first person you  
19 call in Valerie; right?

20 A Exactly.

21 Q And you ask her where they are?

22 A Exactly.

23 Q And tell her, well, I know you're not

Page 25

1 there because your car is not there?

2 A Exactly.

3 Q Was there anything more in that  
4 conversation?

5 A No. Other than she thought that I was  
6 playing when I told her I didn't see the car.  
7 She was like -- I said, the car, I didn't see  
8 it. I said, are you all there. She said, yeah,  
9 we're here. I said, is Marty there. She said,  
10 yeah, he's next to me; he's here. And I was  
11 like, well, I didn't see the car. And then  
12 that's whenever she -- we got off the phone. I  
13 guess they went to go see whatever whatever. In  
14 then the meantime, I called Ricky.

15 Q Now, you're at Wal-Mart now?

16 A I'm at Wal-Mart. I called Ricky and I  
17 was like, you know, your sister's car -- well,  
18 Marty's car wasn't out there. I said, you know,  
19 your sister's there in the hotel, but the car  
20 wasn't out there. And then that's whenever he  
21 said Baby -- well, he calls her Baby Sister. He  
22 said, Baby Sister says that somebody done took  
23 the car. And he said he'll call me back. And

Page 26

1 then that's all I remember until I got back, and  
2 then that's whenever I believe that they were --  
3 I remember them being downstairs.

4 Q I think you brought me up to date. I  
5 wanted to ask you did he say how he knew that  
6 Baby Sister had said that someone had taken the  
7 car?

8 A He said that she told him that.

9 Q Did he say when?

10 A No, he didn't say when. I mean, it had  
11 to be after me and her hanging up the phone and  
12 then by me calling him.

13 Q How soon after you hung up the phone  
14 with her was it that you called him?

15 A Maybe five minutes, three minutes. It  
16 wasn't -- it wasn't...

17 Q Did you use your cell phone?

18 A I did.

19 Q And what's the number on it?

20 A My old number was 538-2339.

21 Q That was the one that you had when  
22 you --

23 A I still have the same line, but that

Page 27

1 was my number at the time. I changed my number  
2 since then. I'm still with Sprint.

3 Q It was a Sprint number.

4 A Exactly.

5 Q And at the time, you were 538-2339?

6 A Uh-huh.

7 Q And what are you now?

8 A 819-0727.

9 Q How long have you been 819-0727?

10 A Not even a month.

11 Q Very recent, then?

12 A Uh-huh.

13 Q But it's still a Sprint phone?

14 A It's still the same account.

15 Q Okay. All right. So when you come  
16 back and they're talking to the desk clerk --  
17 and you really aren't part of those  
18 conversations?

19 A No.

20 Q What happens next?

21 A I know I remember there was a lot of  
22 waiting. I don't really remember. I just  
23 remember it was a lot of waiting. And I

Page 28

7 (Pages 25 to 28)



## FELICIA FLOWERS

1 remember them saying -- we went back to Donald's  
2 house, still waiting. And then Donald showed  
3 us, I think, where the rental car place was. He  
4 had to go pick a -- I think it was a Grand Am or  
5 Grand Prix or something.

6 **Q Pick up a rental car?**

7 A Yeah. And after that we pretty much --  
8 the day was pretty much gone. And we went -- we  
9 went to the fish market and got some fish and  
10 then we went back to Donald's house and cooked  
11 out.

12 **Q Okay. And then you stayed there -- did**  
13 **y'all go out Saturday night after you cooked**  
14 **out?**

15 A God, I really don't remember.

16 **Q Don't remember?**

17 A I don't remember.

18 **Q But y'all did go back to Montgomery and**  
19 **come back to Montgomery on Sunday?**

20 A Sunday.

21 **Q Okay. Do you remember any calls to the**  
22 **police?**

23 A I don't remember seeing any police.

Page 29

1 I'm assuming -- yeah, I remember them saying  
2 that they -- I think Marty called the police and  
3 then I want to say Sandy called because the --  
4 like I said, it was a lot of waiting.

5 **Q Okay. Do you remember the calls, or**  
6 **you remember them talking about the calls?**

7 A Them saying -- them talking about the  
8 calls.

9 **Q You didn't hear any of those calls?**

10 A I didn't, no.

11 **Q Do you remember anything about calling**  
12 **an insurance company?**

13 A The insurance company -- I believe he  
14 was on the phone with the insurance company  
15 during the process of him getting the rental  
16 car, so, yes, I remember that.

17 **Q Okay.**

18 A Because Marty and Val had to ride with  
19 us to the rental car place.

20 **Q Do you remember the phone call, the**  
21 **actual phone call to the insurance company, or**  
22 **do you just remember that there was a call?**

23 A I remember there was a call.

Page 30

1 **Q All right. Do you live at the**  
2 **apartments that you are the rental agent for?**

3 A No.

4 **Q You don't?**

5 A No.

6 **Q Isn't it usually the case that the**  
7 **rental agent lives there, or is that not the**  
8 **case?**

9 A It's -- we only get a -- every property  
10 is not the same, but we only get a percentage  
11 off of our rent.

12 **Q I see. Do you remember any talk -- any**  
13 **conversations or overhearing any conversations**  
14 **where what was in the car was discussed, like**  
15 **personal property?**

16 A The only thing I remember is him saying  
17 something about a gun. That's all I remember.  
18 That's all I really remember.

19 **Q Do you remember when you heard that?**

20 A Whenever they were talking to the --  
21 well, I'm not sure if they were talking to the  
22 receptionist or whatever the guy at the hotel --  
23 in the lobby area, the Arab guy. But I remember

Page 31

1 him saying some of the things that he had in  
2 there, and I remember hearing a gun. I know  
3 there was more than that, but I just remember  
4 hearing a gun.

5 **Q Okay. Since that time, have you talked**  
6 **to Martin or Val or anyone else about what the**  
7 **property was that was in the car?**

8 A No.

9 **Q Okay. So since that time, that**  
10 **weekend, February '05, have you talked to anyone**  
11 **other than that group about what happened?**

12 A No.

13 **Q And when you've talked to the group**  
14 **about what happened, I guess y'all may have**  
15 **talked about the fact that the -- what happened**  
16 **to the car; correct?**

17 A No.

18 **Q Or have you just not talked about it?**

19 A Actually, the first time I've heard  
20 since then about this was whenever I got the  
21 paperwork, and that's whenever I was like I  
22 can't really remember, you know, accurate time.

23 **Q So it really hasn't been much of a**

Page 32

8 (Pages 29 to 32)

**FELICIA FLOWERS**

1 **topic of conversation?**

2 A No, it hasn't. Now, I've seen Val  
3 since then, but, like I said, we haven't talked  
4 about it.

5 **Q And you and Ricky haven't talked about**  
6 **it?**

7 A No.

8 **Q Do you still see Ricky from time to**  
9 **time?**

10 A I do.

11 **Q Okay. Had you met Martin before this**  
12 **trip?**

13 A Never.

14 **Q This was the first time?**

15 A First time.

16 **Q So you didn't know much about him?**

17 A No.

18 **Q Did you know Val?**

19 A Yes.

20 **Q Had you ever talked to Val about**  
21 **Martin?**

22 A Never.

23 MR. NEWMAN: That's all I have. Thank

Page 33

1 **C E R T I F I C A T E**

2  
3 STATE OF ALABAMA )

4  
5 COUNTY OF MONTGOMERY )

6  
7  
8 I hereby certify that the above and  
9 foregoing deposition was taken down by me in  
10 stenotype, and the questions and answers thereto  
11 were transcribed by means of computer-aided  
12 transcription, and that the foregoing represents  
13 a true and accurate transcript of the testimony  
14 given by said witness upon said hearing.

15 I further certify that I am neither of  
16 counsel, nor kin to the parties to the action,  
17 nor am I in anywise interested in the result of  
18 said cause.

19  
20  
21 -----  
21 STACEY L. JOHNSON, Certified  
22 Shorthand Reporter and  
22 Commissioner for the State of  
23 Alabama at Large.

Page 35

1 you very much.

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23 FURTHER DEPONENT SAITH NOT

Page 34

**MARTIN O. LONG**

<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE MIDDLE DISTRICT OF ALABAMA</p> <p>3 NORTHERN DIVISION</p> <p>4 CASE NO.: 2:06cv816-MHT</p> <p>5</p> <p>6 MARTIN O. LONG,</p> <p>7 Plaintiff,</p> <p>8 V.</p> <p>9 STATE FARM FIRE AND CASUALTY COMPANY,</p> <p>10 Defendants.</p> <p>11</p> <p>12</p> <p>13 STIPULATIONS</p> <p>14</p> <p>15</p> <p>16 IT IS STIPULATED AND AGREED by and</p> <p>17 between the parties, through their respective</p> <p>18 counsel, that the deposition of MARTIN O. LONG</p> <p>19 may be taken before STACEY L. JOHNSON,</p> <p>20 Commissioner, at the Offices of Beers, Anderson,</p> <p>21 Jackson, Patty, Van Heest &amp; Fawal, 250 Commerce</p> <p>22 Street, Suite 100, Montgomery, Alabama, on the</p> <p>23 27th day of March, 2007.</p> <p style="text-align: right;">Page 1</p>	<p>1 INDEX</p> <p>2 EXAMINATION BY: PAGE NUMBER:</p> <p>3 Mr. Newman.....7-185</p> <p>4 Mr. Burge.....185-199</p> <p>5 Mr. Newman.....199-200</p> <p>6 Mr. Burge.....200-201</p> <p>7 Mr. Newman.....201</p> <p>8</p> <p>9 EXHIBITS:</p> <p>10 Defendant's Exhibit 0.....7</p> <p>11 (notice)</p> <p>12 Defendant's Exhibit 1.....7</p> <p>13 (Plaintiff's initial disclosures)</p> <p>14 Defendant's Exhibit 2.....7</p> <p>15 (Answers to Interrogatories)</p> <p>16 Defendant's Exhibit 3.....7</p> <p>17 (03-4-2005 letter from State Farm)</p> <p>18 Defendant's Exhibit 4.....7</p> <p>19 (photocopy of keys and key fob)</p> <p>20 Defendant's Exhibit 5.....7</p> <p>21 (photocopies of various receipts and titles)</p> <p>22 Defendant's Exhibit 6.....7</p> <p>23 (affidavit)</p> <p style="text-align: right;">Page 3</p>
<p>1 IT IS FURTHER STIPULATED AND AGREED</p> <p>2 that the signature to and the reading of the</p> <p>3 deposition by the witness is hereby waived, the</p> <p>4 deposition to have the same force and effect as</p> <p>5 if full compliance had been had with all laws</p> <p>6 and rules of Court relating to the taking of</p> <p>7 depositions.</p> <p>8 IT IS FURTHER STIPULATED AND AGREED</p> <p>9 that it shall not be necessary for any</p> <p>10 objections to be made by counsel to any</p> <p>11 questions except as to form or leading</p> <p>12 questions, and that counsel for the parties may</p> <p>13 make objections and assign grounds at the time</p> <p>14 of trial, or at the time said deposition is</p> <p>15 offered in evidence, or prior thereto.</p> <p>16 IT IS FURTHER STIPULATED AND AGREED</p> <p>17 that the notice of filing of the deposition by</p> <p>18 the Commissioner is waived.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p style="text-align: right;">Page 2</p>	<p>1 Defendant's Exhibit 7.....7</p> <p>2 (tag receipt)</p> <p>3 Defendant's Exhibit 8.....7</p> <p>4 (Big 10 Tires receipt)</p> <p>5 Defendant's Exhibit 9.....7</p> <p>6 (Incident Property)</p> <p>7 Defendant's Exhibit 10.....7</p> <p>8 (Examination Under Oath transcript)</p> <p>9 Defendant's Exhibit 11.....7</p> <p>10 (manufactured home policy)</p> <p>11 Defendant's Exhibit 12.....7</p> <p>12 (Alabama Uniform Incident/Offense Report)</p> <p>13 Defendant's Exhibit 13.....53</p> <p>14 (telephone interview transcript)</p> <p>15 Defendant's Exhibit 14.....86</p> <p>16 (sketch)</p> <p>17 Defendant's Exhibit 15.....134</p> <p>18 (06-29-2005 letter to Tucker Burge from</p> <p>19 State Farm)</p> <p>20 Defendant's Exhibit 16.....134</p> <p>21 (06-29-2005 letter to Tucker Burge from</p> <p>22 State Farm)</p> <p>23</p> <p style="text-align: right;">Page 4</p>

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<p>1 Defendant's Exhibit 17.....151  2 (U-Haul Equipment Contract)  3 Defendant's Exhibit 18.....154  4 (manufactured home policy)  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23</p> <p style="text-align: right;">Page 5</p>	<p>1 I, STACEY L. JOHNSON, a CSR of Montgomery,  2 Alabama, and Notary Public for the State of  3 Alabama at Large, acting as Commissioner,  4 certify that on this date, as provided by the  5 Federal Rules of Civil Procedure and the  6 foregoing stipulation of counsel, there came  7 before me at 250 Commerce Street, Suite 100,  8 Montgomery, Alabama, beginning at 9:57 a.m.,  9 MARTIN O. LONG, witness in the above cause, for  10 oral examination, whereupon the following  11 proceedings were had:  12  13 (Whereupon, Defendant's Exhibit  14 Numbers 1 through 12 were marked for  15 identification and copies of same are  16 attached hereto.)  17  18 MARTIN O. LONG,  19 the witness, after having been first duly sworn  20 to speak the truth, the whole truth, and nothing  21 but the truth, testified as follows:  22 EXAMINATION  23 BY MR. NEWMAN:</p> <p style="text-align: right;">Page 7</p>
<p>1 APPEARANCES  2 FOR THE PLAINTIFF, MARTIN O. LONG:  3 BURGE &amp; BURGE  4 F. Tucker Burge  4 2001 Park Place North  4 Suite 850  5 Birmingham, Alabama 35203  5  6  7 FOR THE DEFENDANT, STATE FARM FIRE AND CASUALTY  8 COMPANY:  9 HELMSING, LEACH, HERLONG, NEWMAN &amp; ROUSE  9 James B. Newman  10 (NEWMJ8049)  10 jbn@helmsinglaw.com  11 150 Government Street  11 Suite 2000  12 Mobile, Alabama 36602  12 (251) 432-5521  13  14  15  16  17  18  19  20  21  22  23</p> <p style="text-align: right;">Page 6</p>	<p>1 Q Would you state your name, please?  2 A Martin O'Neal Long.  3 Q Your address, Mr. Long?  4 A 2752 Caroline Drive, Millbrook, Alabama  5 36054.  6 Q And how long have you lived at that  7 address?  8 A Since '98.  9 Q Are you employed?  10 A No.  11 Q How long has it been since you've been  12 employed?  13 A Since 2003.  14 Q And who was your last employer?  15 A CSX.  16 Q Let me show you what's been marked as  17 Defendant's Exhibit 0 to the deposition, and  18 that's the Notice of Deposition.  19 MR. NEWMAN: And, Tucker, you've  20 confirmed that the things that are attached as  21 the duces tecum part of the notice have all been  22 produced; correct?  23 MR. BURGE: Yeah. I mean, as far as</p> <p style="text-align: right;">Page 8</p>

2 (Pages 5 to 8)



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<p>1 the documents relating to the allegations. He's 2 already given State Farm during the claims 3 process all of the documents that he had 4 relating to the purchase of his car and the 5 theft of his car. The claims file, which I 6 brought with me, I mean, it has stuff in there 7 about the police report having -- that he 8 reported it and so forth. I don't know of any 9 documents relating to our allegations that are 10 not contained in there or any communications 11 between him and State Farm that are not 12 contained in there or any documents that he has 13 concerning the values of his losses that aren't 14 contained in there.</p> <p>15 MR. NEWMAN: So what you're saying is 16 that all of those documents we asked for have 17 all been produced?</p> <p>18 MR. BURGE: I think they've already 19 been produced.</p> <p>20 MR. NEWMAN: All right. Fine.</p> <p>21 Q Mr. Long, are you married?</p> <p>22 A No.</p> <p>23 Q Okay. Are you divorced?</p> <p style="text-align: right;">Page 9</p>	<p>1 A Okay.</p> <p>2 Q And I do it, too. It's something we do 3 in conversation. But we'll try to work on it. 4 All right?</p> <p>5 A All right.</p> <p>6 Q Okay. What was the occasion of your 7 leaving the employment of CSX?</p> <p>8 A I got hurt on the job.</p> <p>9 Q And that injury was to what part of 10 your body?</p> <p>11 A My right shoulder.</p> <p>12 Q And as a result of that -- you were 13 working for the railroad; correct?</p> <p>14 A Yes.</p> <p>15 Q And so you made a claim under FELA?</p> <p>16 MR. BURGE: Do you know what the law 17 was that we pursued your claim under?</p> <p>18 THE WITNESS: No.</p> <p>19 Q You made a claim against the railroad 20 company CSX; is that right?</p> <p>21 A Yes.</p> <p>22 Q You were represented by Mr. Burge in 23 that claim?</p> <p style="text-align: right;">Page 11</p>
<p>1 A Yes.</p> <p>2 Q How many times have you been married?</p> <p>3 A One.</p> <p>4 Q What is your ex-wife's name?</p> <p>5 A Evelyn Long. I'm sorry. Evelyn 6 Gilder.</p> <p>7 Q It was Long, of course, when she was 8 married to you?</p> <p>9 A Uh-huh.</p> <p>10 Q How long have you been divorced?</p> <p>11 A We got divorced in, I think, 2005.</p> <p>12 Q Okay. I'm going to be asking you some 13 questions today. If you don't understand any of 14 my questions, stop me and ask me to rephrase 15 them. Okay?</p> <p>16 A Okay.</p> <p>17 Q If you answer them, I'm going to assume 18 that you answered what I asked. Fair enough?</p> <p>19 MR. BURGE: Object to the form.</p> <p>20 Q And if you don't understand, it would 21 help us and it will help us speed this up if 22 when you answer a question you say yes or no, 23 instead of uh-huh and huh-uh.</p> <p style="text-align: right;">Page 10</p>	<p>1 A Yes.</p> <p>2 Q And you settled that claim out of 3 court; right?</p> <p>4 A Yes.</p> <p>5 Q The settlement of that claim was it in 6 the approximate amount of \$250,000?</p> <p>7 A Yes.</p> <p>8 Q And out of that \$250,000, how much did 9 you receive? That's after paying Mr. Burge's 10 fees and expenses and that type of thing.</p> <p>11 A 175.</p> <p>12 Q \$175,000. Do you remember the date 13 that you received the money?</p> <p>14 A Nope.</p> <p>15 Q Was it in February of 2005? You don't 16 remember that?</p> <p>17 MR. BURGE: I have that information if 18 that's something that you need.</p> <p>19 MR. NEWMAN: I've got it, too. I can 20 either -- I mean, you can find it or I can find 21 it, either one.</p> <p>22 MR. BURGE: Okay. 12-14-05, that's the 23 date on the check.</p> <p style="text-align: right;">Page 12</p>

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1 MR. NEWMAN: I think it was about that.

2 MR. BURGE: The settlement statement  
3 was around the day before.

4 MR. NEWMAN: Did you find it, Tucker?  
5 I'm still looking for it.

6 MR. BURGE: It's February the 4th. And  
7 February the 3rd is the date of the expense  
8 check. February the 3rd apparently is the date  
9 of the signed release, and I think February the  
10 4th is the date of the trust account check.

11 MR. NEWMAN: Good deal. Thank you.

12 **Q Mr. Long, Mr. Burge has been kind**  
13 **enough to let me know that his records show that**  
14 **the time of the settlement was in early February**  
15 **of 2005. Does that sound reasonable to you?**

16 A Yes.

17 **Q And did you cash the check when it came**  
18 **to you?**

19 A No. What I did, I took it to Regions  
20 Bank and I got a \$25,000 -- some kind of check.  
21 That's what I went and got the car with.  
22 Traveler's.

23 MR. BURGE: Cashier's.

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1 **Q All right. And what day did you buy**  
2 **that Corvette on? Do you remember?**

3 A It was either -- it was in that same  
4 week because I had already looked it up on the  
5 Internet and I had already talked to the guy and  
6 let him know I was going through a settlement.  
7 And I had already talked to State Farm Insurance  
8 and got everything straight so once I did go get  
9 the car I would have insurance when I brought it  
10 back.

11 **Q So it was very soon -- within a day or**  
12 **so -- after you got the check that you took the**  
13 **cashier's check from Regions and went over and**  
14 **gave it to the people for the Corvette?**

15 A Right.

16 **Q Who did you buy the Corvette from?**

17 A From City Auto Sales in Hueytown.

18 **Q And you had already arranged with**  
19 **someone at State Farm for insurance?**

20 A Right. I talked with Leigh. A lady  
21 named Leigh in the office.

22 **Q Whose office was that in?**

23 A Mike Devers.

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1 A Cashier's check in that amount. And  
2 then the rest of the check I entered into a Max  
3 account that I had. But Max wouldn't cash the  
4 check because it was too much. So I went and  
5 took it to Regions and Regions cashed it and  
6 gave me a cashier's check for \$25,000 and the  
7 rest of it I took it to Max.

8 **Q Did Regions give you the balance of it**  
9 **back in another cashier's check?**

10 A Yes.

11 **Q And who was Max?**

12 A Max Federal Credit Union.

13 **Q Max, M-A-X?**

14 A Right.

15 **Q And is that where you had your account**  
16 **at the time?**

17 A Yes.

18 **Q And then did you take that \$25,000 and**  
19 **buy the Corvette --**

20 A Right.

21 **Q -- that's the subject of the insurance**  
22 **policy that this lawsuit is about?**

23 A Right. Yes.

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1 **Q Had you used Mr. Devers before?**

2 A Yes, that's who all I dealt with.

3 **Q And you also -- did you own a trailer,**  
4 **a manufactured home, that was on some property**  
5 **in Millbrook?**

6 A Yes.

7 **Q Who owned the property that the trailer**  
8 **was on?**

9 A My dad.

10 **Q Okay. And it was your trailer?**

11 A Right.

12 **Q And it was insured through State Farm**  
13 **as well?**

14 A Yes.

15 **Q And Mr. Devers had written that policy?**

16 A Yes.

17 **Q Had Mr. Devers written auto policies**  
18 **for you in the past as well?**

19 A Yes, sir.

20 **Q One of those was for -- didn't you have**  
21 **a previous Corvette that --**

22 A Yes, I had a 2000. No. I'm sorry. I  
23 had a 1992 Corvette.

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4 (Pages 13 to 16)

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<p>1 Q What happened to it?</p> <p>2 A It had got stolen at one time.</p> <p>3 Q Was it ever recovered?</p> <p>4 A Yes.</p> <p>5 Q Did you get the car back, or was it</p> <p>6 totaled when it was recovered?</p> <p>7 A No. I got the car back.</p> <p>8 Q And was anything missing from that car</p> <p>9 when it was returned?</p> <p>10 A Yes. Just the tires and the rims.</p> <p>11 Q At the time you purchased the Corvette,</p> <p>12 didn't you have another vehicle that you had</p> <p>13 insured with State Farm?</p> <p>14 A Yes. I had a '97 Mustang Cobra and a</p> <p>15 2000 S70 Volvo, which was my ex-wife's at that</p> <p>16 time.</p> <p>17 Q She drove the Volvo?</p> <p>18 A Right.</p> <p>19 Q Now, the Mustang Cobra, is that the</p> <p>20 Mustang Cobra that was later involved with the</p> <p>21 shooting incident?</p> <p>22 A Yes.</p> <p>23 Q But the shooting incident occurred</p> <p style="text-align: right;">Page 17</p>	<p>1 Q So Christopher then comes after you;</p> <p>2 right?</p> <p>3 A (Witness nods head.)</p> <p>4 Q Is that a yes?</p> <p>5 A Yes.</p> <p>6 Q And he has a gun?</p> <p>7 A Yes.</p> <p>8 Q He shoots at you?</p> <p>9 A Right. We shoot at each other.</p> <p>10 Q Does he shoot first?</p> <p>11 A Yes.</p> <p>12 Q And then you shoot back at him?</p> <p>13 A Yes.</p> <p>14 Q And then in the process, you shoot a</p> <p>15 hole through your car?</p> <p>16 A Yes.</p> <p>17 Q Were you inside or outside your car</p> <p>18 when you shot the hole through it?</p> <p>19 A I was outside.</p> <p>20 Q Did you ever have any more run-ins with</p> <p>21 Christopher after that?</p> <p>22 A No.</p> <p>23 Q What gun were you shooting at the time,</p> <p style="text-align: right;">Page 19</p>
<p>1 after the time that the Corvette was found</p> <p>2 missing in Atlanta; right?</p> <p>3 A No. That was before.</p> <p>4 Q The shooting incident was before?</p> <p>5 A Right.</p> <p>6 Q Tell me about the shooting incident,</p> <p>7 then.</p> <p>8 A Well, I was just coming from the</p> <p>9 regional office one night around -- I guess it</p> <p>10 was around midnight. And the dude that I got</p> <p>11 into it with had got into it with one of my</p> <p>12 friends prior, you know. And I had loaned my</p> <p>13 friend a weapon, which, you know, the police</p> <p>14 already know and they said that was fine or</p> <p>15 whatever. And after that, like I say, he come</p> <p>16 after me.</p> <p>17 Q The person that you had -- were trying</p> <p>18 to help your friend with, what was his name?</p> <p>19 What was your friend's name first?</p> <p>20 A Lester Jackson.</p> <p>21 Q And what's the other fellow's name?</p> <p>22 A All I know is Christopher. I don't</p> <p>23 know what his last name is.</p> <p style="text-align: right;">Page 18</p>	<p>1 handgun? Was it a handgun?</p> <p>2 A .45 automatic.</p> <p>3 Q Is that the same .45 automatic that was</p> <p>4 lost in the car?</p> <p>5 A No.</p> <p>6 Q The Corvette?</p> <p>7 A No.</p> <p>8 Q Okay. How did you use the remaining</p> <p>9 money of the \$175,000 that you received? We're</p> <p>10 down to 150; right?</p> <p>11 A Right.</p> <p>12 Q How did you use the rest of the 150?</p> <p>13 A I gave -- I paid off \$43,000 to my</p> <p>14 ex-wife's student loan.</p> <p>15 Q Okay.</p> <p>16 A I paid \$12,000 to pay off the S70</p> <p>17 Volvo.</p> <p>18 Q Okay.</p> <p>19 A And we had accumulated bills amongst</p> <p>20 each other. I think it was close to like</p> <p>21 \$50,000.</p> <p>22 Q Credit-card-type bills?</p> <p>23 A Yes. And then I gave her an additional</p> <p style="text-align: right;">Page 20</p>

5 (Pages 17 to 20)

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<p>1 \$20,000 to go in her pocket, and I kept 20.  2 Q Okay.  3 A That should be about all of it.  4 Q I think it sounds like it should be.  5 I'm going to total it up real quick.  6 Yeah, that totals about \$170,000, and  7 that's pretty close. There's another \$5,000  8 somewhere.  9 When you paid the credit card bills,  10 did you pay them by a check from Max?  11 A Right. Yes.  12 Q Okay. And when you paid the student  13 loan, did you pay it with a check from Max?  14 A Yes. She paid all that because, you  15 know, the account was in both our names but she  16 was writing all the checks.  17 Q But a check was written to pay the  18 credit card bills? The \$50,000 worth, that was  19 written from Max?  20 A Yes, yes. Everything was written from  21 Max Federal Credit Union.  22 Q And the 12,000 on the Volvo was written  23 from Max?</p> <p style="text-align: right;">Page 21</p>	<p>1 Q So, as I understand it, then, at Max,  2 you both had a joint checking account; right?  3 A Right.  4 Q And then you had an individual savings  5 account; is that right?  6 A Yes.  7 Q Okay. Where is Max Federal Credit  8 Union?  9 A In Prattville. But, you know, I gave  10 them all them records because they wanted to see  11 all that.  12 Q Yeah.  13 MR. BURGE: There will be some  14 repetition today, so just be ready for that.  15 MR. NEWMAN: I'm sorry, Tucker. What?  16 MR. BURGE: He said I've already given  17 y'all that, and I said there's going to be some  18 repetition today.  19 Q Yeah, there will be some repetition  20 today.  21 Did State Farm pay for the damage to  22 the Mustang Cobra?  23 A Yes.</p> <p style="text-align: right;">Page 23</p>
<p>1 A Yes.  2 Q And the 43 on the student loans was  3 written from Max?  4 A Yes.  5 Q And then how did you go about dividing  6 the remaining money? Did she put it in a  7 separate account, or did you put yours in a  8 separate account? What happened then? You said  9 you divided the remaining money between the two  10 of you.  11 A I think I took my money out of the  12 account. Either I left it in that account or I  13 put it in my savings account. I think I put it  14 in my savings account. But her 20, I'm pretty  15 sure she left her 20 in the account.  16 Q Okay. And where was your savings  17 account?  18 A At Max.  19 Q Okay. So was that just under your  20 name, or was it under both of your names?  21 A Just mine.  22 Q Just yours?  23 A Right.</p> <p style="text-align: right;">Page 22</p>	<p>1 Q Had you had any previous claims through  2 State Farm? I guess we're talking about before  3 the Cobra?  4 A Yes. I had a hail damage claim.  5 Q That would be on your trailer?  6 A Yes.  7 Q Okay. And did they pay for that?  8 A Yes.  9 Q All right. Any other claims?  10 A No. That's it.  11 Q How about that Corvette that got  12 stolen? Did you make a claim against State Farm  13 for it?  14 A Oh, yes. You had already asked about  15 that.  16 Q No. I'm talking about the '92  17 Corvette.  18 A That's what I'm saying. Yes.  19 Q So you did make a claim on it?  20 A Right.  21 Q That one, you said, basically, they  22 took the rims off of it?  23 A Right.</p> <p style="text-align: right;">Page 24</p>



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<p>1 Q Okay. And so, then, we've got the</p> <p>2 Cobra on the gunshot, we've got the '92</p> <p>3 Corvette, and we've got the hail claim and then</p> <p>4 we've got this Corvette claim; right?</p> <p>5 A Right.</p> <p>6 Q Then out of the Corvette claim, you</p> <p>7 also had a claim for personal property that was</p> <p>8 in the Corvette that was in Atlanta when it went</p> <p>9 missing; right?</p> <p>10 A Yes.</p> <p>11 Q Okay. Have you ever been convicted of</p> <p>12 a crime?</p> <p>13 A No.</p> <p>14 Q Okay. Have you ever been in any</p> <p>15 lawsuits before?</p> <p>16 A No.</p> <p>17 MR. BURGE: Other than --</p> <p>18 A Oh, other than the railroad.</p> <p>19 Q Okay. How many handguns do you now</p> <p>20 own?</p> <p>21 A I've got two .45s, one .40 cal, one .9</p> <p>22 millimeter, and one .38.</p> <p>23 Q Are they all automatics, or are there</p> <p style="text-align: right;">Page 25</p>	<p>1 bullets?</p> <p>2 A Yes.</p> <p>3 Q At the time that you went to Atlanta --</p> <p>4 well, let me go back. You've also had some guns</p> <p>5 stolen from your house -- your trailer -- in</p> <p>6 Millbrook; correct?</p> <p>7 A Correct.</p> <p>8 Q What's been stolen there in the way of</p> <p>9 guns, firearms?</p> <p>10 A There was a shotgun, an AK47, and a</p> <p>11 .357.</p> <p>12 Q One handgun, two long guns. One of</p> <p>13 which was a shotgun and one of which was a</p> <p>14 rifle?</p> <p>15 A Assault rifle.</p> <p>16 Q Did you report those thefts to the</p> <p>17 police?</p> <p>18 A Yes.</p> <p>19 Q Were any of them ever recovered?</p> <p>20 A I think they recovered the .357. The</p> <p>21 Millbrook Police Department called me a couple</p> <p>22 of years ago and said they had it, but they</p> <p>23 never called back. I never got neither one of</p> <p style="text-align: right;">Page 27</p>
<p>1 some revolvers in there?</p> <p>2 A Everything's automatic except for the</p> <p>3 .38. The .38 is a revolver.</p> <p>4 Q What makes are the .45s?</p> <p>5 A All my guns are a Taurus. That's all I</p> <p>6 buy.</p> <p>7 Q And the gun that was in the Corvette,</p> <p>8 was it a Taurus as well?</p> <p>9 A Yes.</p> <p>10 Q It was a .45 automatic?</p> <p>11 A Yes.</p> <p>12 Q Is it the same model as the two .45s</p> <p>13 that you still have?</p> <p>14 A No.</p> <p>15 Q Different model?</p> <p>16 A Yes.</p> <p>17 Q Explain the difference to me.</p> <p>18 A I don't know it by number, but this .45</p> <p>19 here it was shorter. It was like a shorter gun</p> <p>20 and the grip was shorter. It could be more</p> <p>21 concealed. It was smaller than the other .45s</p> <p>22 I've got, but it was still made by Taurus.</p> <p>23 Q Did the clip hold the same number of</p> <p style="text-align: right;">Page 26</p>	<p>1 the guns back.</p> <p>2 Q I was wondering if you ever got -- they</p> <p>3 told you they found the .357. Did you ever get</p> <p>4 it back?</p> <p>5 A No.</p> <p>6 Q Was it a revolver or automatic?</p> <p>7 A Revolver.</p> <p>8 Q And it wasn't a Taurus, was it? .357?</p> <p>9 A I think it was.</p> <p>10 Q It was? I didn't know they made one.</p> <p>11 A I used to have a Sig. .357 Sig made by</p> <p>12 Taurus, but I can't remember. I'm pretty sure</p> <p>13 it is because that's all I buy.</p> <p>14 Q Okay. Now, when the incident</p> <p>15 occurred -- and when I say the incident, I'm</p> <p>16 talking about the incident when your Corvette</p> <p>17 turned up missing outside of the County Hearth</p> <p>18 Hotel in Lithonia, Georgia. Okay?</p> <p>19 A Okay.</p> <p>20 Q When that occurred, do you know how</p> <p>21 long that was after the time that you purchased</p> <p>22 the Corvette?</p> <p>23 A I think I had probably had that car</p> <p style="text-align: right;">Page 28</p>

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<p>1 maybe two weeks. You know, I had just did a few  2 modifications to it and, you know, just hit the  3 town.  4 <b>Q What had you had done to it?</b>  5 A I put some new rims and tires on it and  6 a couple of those Corvette decals. I had one  7 that goes between the seat and the -- you know  8 where the gear stick is?  9 <b>Q Yes, sir.</b>  10 A The decal is just the same way as the  11 ones on the front, the circle with the two  12 flags. I had one to go right there. And then I  13 put some light louvers on the back of it. They  14 like the same size the light is but they plastic  15 and they got lines across it. I put that on all  16 four of the taillights. And I put some tape  17 that you can cut out, which is the word  18 Corvette, and it changes the color of it. I did  19 that in the front and in the back.  20 <b>Q Where did you get the work done? I</b>  21 <b>know you got the tires and rims at Big 10 Tires,</b>  22 <b>didn't you?</b>  23 A Yes. Well, I got the rims --</p> <p style="text-align: right;">Page 29</p>	<p>1 the exhibits attached to it.  2 <b>Q Have you seen that before?</b>  3 A March 31st. I did two of these  4 things. Which one was this?  5 MR. BURGE: The question was whether  6 you've seen it.  7 <b>Q Have you seen this transcript, the</b>  8 <b>typed out version of this? Have you seen that</b>  9 <b>before?</b>  10 A No.  11 <b>Q So you never got something like that in</b>  12 <b>the mail from a court reporter?</b>  13 A Well, I think I did get something like  14 this from...  15 <b>Q Or maybe from Mr. Burge?</b>  16 A No. I think I got something -- I think  17 that adjustor sent me something like that,  18 insurance adjustor.  19 <b>Q Did you read it when you got it?</b>  20 A Yeah.  21 <b>Q You see attached to this, Mr. Long, are</b>  22 <b>some of the things that you brought to that</b>  23 <b>examination under oath?</b></p> <p style="text-align: right;">Page 31</p>
<p>1 <b>Q You got the rims somewhere else?</b>  2 A -- in Birmingham. The same day I  3 bought the car, I went to this other place not  4 too far where you give them your rims, which was  5 not chrome, and give them \$900 and they give you  6 chrome rims. The same kind of rims you give  7 them go back on the car. Then I had got four  8 new tires from Big 10 Tires in Prattville,  9 Alabama.  10 <b>Q Then what about the louvers and the</b>  11 <b>decals?</b>  12 I ordered that from this Corvette  13 book. I think it's called Echers?  14 <b>Q This came in the mail?</b>  15 A Right.  16 <b>Q And you installed it yourself?</b>  17 A Yes.  18 <b>Q What year was the Corvette that you</b>  19 <b>purchased for \$25,000?</b>  20 A 2000.  21 <b>Q Let me show you what's been marked here</b>  22 <b>as Defendant's Exhibit 10.</b>  23 MR. NEWMAN: This is his EUO with all</p> <p style="text-align: right;">Page 30</p>	<p>1 A Uh-huh.  2 <b>Q You know, your tire receipts, your cell</b>  3 <b>phone records, your banking documents, your tax</b>  4 <b>returns, your settlement on your wife's</b>  5 <b>divorce. Those are some of the things that are</b>  6 <b>attached to it.</b>  7 A Right.  8 <b>Q What my question is, are the questions</b>  9 <b>in there -- are your answers to those questions</b>  10 <b>in there are they true and correct?</b>  11 A Yeah. To the best of my ability, yeah.  12 <b>Q I mean, you've looked at this before</b>  13 <b>and you've reviewed it to see whether or not</b>  14 <b>it's correct?</b>  15 A I don't understand the question.  16 <b>Q Have you reviewed this before to see</b>  17 <b>whether or not what was written down in there is</b>  18 <b>correct?</b>  19 A Oh, yes.  20 <b>Q And correctly states the answers to the</b>  21 <b>questions that were asked of you?</b>  22 A Yes.  23 <b>Q Okay. So you don't have any quarrel</b></p> <p style="text-align: right;">Page 32</p>

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<p>1 with the questions and answers in Exhibit 10;  2 correct?  3 A Correct.  4 Q Okay. I mean, you can look through it  5 all. It's --  6 A No. I was just looking at the  7 pictures.  8 Q Do you remember where you did get  9 Exhibit 10, this transcript -- transcript  10 meaning what you stated -- whether you got it  11 from a court reporter or from Mr. Burge or from  12 the insurance adjustor?  13 A I think I got it from the insurance  14 adjustor.  15 Q Okay. Have you still got it at home?  16 A No. I think I sent it back to him.  17 Q Okay. What was your -- well, let me go  18 back. You've been in the Army?  19 A Yes.  20 Q For ten years?  21 A Ten and a half.  22 Q A second class petty officer; right?  23 E5?</p> <p style="text-align: right;">Page 33</p>	<p>1 Q And you were honorably discharged?  2 A Yes, sir.  3 Q And after you were discharged, did you  4 go immediately to work for CSX?  5 A No. I started -- well, I drove trucks  6 for a minute because I got my CDL. And I drove  7 trucks for a minute, and I didn't really like  8 it.  9 Q About how long did you drive a truck?  10 A I drove trucks from -- let me see. I  11 got out in May. I think I drove trucks for  12 maybe -- around June until probably close to, I  13 guess, April of '98, because in May of -- that's  14 when I went to Georgia for the railroad school.  15 Q Okay. So just a few months for the  16 trucks, then?  17 A Yes.  18 Q Now, what did you do for the railroad?  19 A Well, I was a conductor, engineer, and  20 a remote control operator.  21 Q What were you doing -- what was your  22 job when you were injured?  23 A I was conductor that night.</p> <p style="text-align: right;">Page 35</p>
<p>1 A Right.  2 Q What was your job in the Army? What  3 was your rate?  4 A My rate?  5 Q What did you do?  6 A Logistics.  7 Q And where were you stationed?  8 A I was stationed in Germany, I went to  9 Korea, then I went to Southwest Asia back in  10 '91, and I went to -- let me see -- Ft. Bragg  11 and Red Stone Arsenal.  12 Q And why did you leave the Army?  13 A Because I had messed up my legs jumping  14 out of planes and they medically boarded me out.  15 Q Parachuting out of an airplane?  16 A Yes.  17 Q Trying to get qualified for a jump?  18 A Yes.  19 Q Is that the first jump that you did?  20 A Yes. First and last.  21 Q Okay. When were you discharged? What  22 year?  23 A '97. May of '97.</p> <p style="text-align: right;">Page 34</p>	<p>1 Q What does the conductor do? What's a  2 conductor's job?  3 A Well -- no, I wasn't conducting.  4 Q You were an engineer that night,  5 weren't you?  6 A No, I wasn't an engineer. I was in the  7 yard working with remote controls. So I guess I  8 was a remote control operator that night.  9 Q And how did you hurt your shoulder?  10 A Trying to release a hand brake from the  11 shop.  12 Q Just pulling on it or pushing on it?  13 A Pulling on it with a brake stick.  14 Q And strained something or pulled  15 something when you did that?  16 A Yes.  17 Q Do you know what the nature of your  18 injury was?  19 A Yeah. I had surgery on my right  20 shoulder. I had two surgeries. The first  21 surgery shaved the bone down. The second one  22 they had to go in and take some ligaments out  23 and I got a thread in my arm.</p> <p style="text-align: right;">Page 36</p>

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1 Q And you've been off work ever since  
2 then; right?  
3 A Right.  
4 Q Okay. When were you and your wife  
5 first married -- your ex-wife first married?  
6 A We got married in '89.  
7 Q So that was while you were in the Army?  
8 A Yes.  
9 Q All right. And does she still work? I  
10 know for a while she worked at the Department of  
11 Human Resources. Is she still working for them?  
12 A I don't know.  
13 Q Don't know. When was the last time you  
14 saw her?  
15 A Last time that she -- I think maybe  
16 last October maybe.  
17 Q Okay. Were you separated from her at  
18 the time of the incident with the Corvette, 2000  
19 Corvette?  
20 A Well, we was right at being separated.  
21 I mean, everything was pretty much wrote out.  
22 It was a done deal.  
23 Q Were y'all living together?

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1 A Yeah, I think she was still staying  
2 there.  
3 Q Okay. That would be in Millbrook?  
4 A Yes.  
5 Q Where does she live now? Do you know?  
6 A No.  
7 Q Where did she live the last time?  
8 A I think she still stays in Elmore  
9 County. I don't know whether she stays in  
10 Millbrook or Elmore or where, Deatsville. I  
11 think she still lives in the county.  
12 Q What were you using for income at the  
13 time before you got your settlement on your  
14 shoulder? What were you using for income?  
15 A My disability from the VA.  
16 Q How much was that?  
17 A I think it was about 1500.  
18 Q Per month?  
19 A Yeah.  
20 Q What other income did you have?  
21 A I think she -- I think she had a little  
22 money coming in, I think, and I was still  
23 getting a little money from the railroad.

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1 Q Do you know how much you were getting  
2 from the railroad then?  
3 MR. BURGE: It's not the railroad.  
4 It's the Railroad Retirement Board.  
5 A Railroad Retirement Board.  
6 Q Do you know how much you were getting  
7 from the Railroad Retirement Board?  
8 A No. I can't remember.  
9 Q Other than that, then, you got some  
10 money disability from the VA and that was, I  
11 guess, as a result of your hurting your leg in  
12 the jump; right?  
13 A Right.  
14 Q And then you were getting some money  
15 from the Railroad Retirement Board as a result  
16 of hurting your shoulder?  
17 A Right.  
18 Q And was your wife contributing anything  
19 at that time?  
20 A I think a little bit because she was  
21 going to school at that time.  
22 Q She was in school?  
23 A Right.

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1 Q Where did she go to school?  
2 A She went to several different schools,  
3 but the last school she went to was Crimson Tide  
4 when she went and got -- I mean, in Tuscaloosa.  
5 She went up there and that's where she got her  
6 Master's.  
7 Q Where did she go to undergraduate  
8 school? Do you know?  
9 A Alabama State.  
10 Q Alabama State first?  
11 A Right.  
12 Q Okay. Was she working while she was in  
13 school?  
14 A I don't think so.  
15 Q Okay. And if you had \$50,000 in credit  
16 card debt and \$43,000 in student loan debts, I  
17 guess, you know, is it safe to say that when you  
18 got the money on this settlement that you were  
19 thin financially, that you didn't have much  
20 money?  
21 MR. BURGE: Object to the form.  
22 A Say that again.  
23 Q Let me go back and I'll rephrase that.

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10 (Pages 37 to 40)



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<p>1 What was your financial situation like just 2 prior to the time that you got in the \$175,000? 3 A Oh, it was rough. 4 Q It was rough? 5 A (Witness nods head.) 6 Q Why? 7 A Because we didn't have no income coming 8 in. You know, the bills keep rolling. It was 9 hard, but, hey, we made it through it. 10 Q And that's why the credit card bills 11 were so high, I suppose? 12 A Partly. Right. Because, you know, we 13 really couldn't afford to pay too much. And 14 every time you don't pay it, they get higher and 15 then they add that money to the principal. It's 16 a rip off. 17 Q And then you also had the debt on the 18 school loan and the Volvo as well; right? 19 A Right. No. The student loan, she 20 didn't have to pay nothing. 21 Q She didn't have to pay that back yet, 22 did she? 23 A Right. You didn't have to pay the</p> <p style="text-align: right;">Page 41</p>	<p>1 in a separate car with Felicia; right? 2 A Yeah. 3 Q How did Sandy get over there? Was he 4 with Ricky? 5 A No. He was in his own vehicle. 6 Q Okay. And why did y'all go over there? 7 A See their brother. 8 Q What is his name? 9 A Donald. 10 Q And that's Ware? 11 A Yes. 12 Q W-A-R-E? 13 A Uh-huh. 14 Q And had you ever been over to Atlanta 15 to see Mr. Ware, Donald Ware, before? 16 A Yes. 17 Q And did you go with Valerie on that 18 occasion? 19 A Yes. 20 Q Did you go with Ricky on that occasion? 21 A Yes. 22 Q Felicia went? 23 A Yes.</p> <p style="text-align: right;">Page 43</p>
<p>1 student loan until after you get a job or 2 something, you know. 3 Q But you did have some car expense at 4 the time? 5 A Right. 6 Q How about the trailer that you're 7 living in? Was it financed with anybody? 8 A Yes. 9 Q Who was it financed with? 10 A It was financed through Greentree. 11 Q Okay. So you were having to pay on it 12 as well? 13 A Right. 14 Q When you went to Atlanta on the -- I 15 think it's February the 18th and took the 16 Corvette over to Lithonia, who did you go with? 17 A I went with a guy named Ricky, his 18 brother Sandy. And their sister, Valerie, she 19 rode with me. And Ricky had a friend, Felicia. 20 Q Who was in the car with you when you 21 went over to Atlanta on February the 18th? 22 A Me and Val, Valerie. 23 Q Okay. And then her brother Ricky was</p> <p style="text-align: right;">Page 42</p>	<p>1 Q And Sandy? 2 A Right. 3 Q So same group? 4 A Right. 5 Q How long before had y'all gone over 6 there? 7 A I think it was months before then. 8 Q Well, this was February the 19th when 9 this incident with the 2000 Corvette occurred. 10 So how much before then? A couple of months? 11 A Right. Yes, about a couple of months. 12 Q Okay. When you had gone over there 13 before a couple of months before, had you stayed 14 at the same place? 15 A No. I think we -- we stayed with him. 16 Q Stayed with him that time? 17 A Right. 18 Q Did he live in Lithonia, Georgia? 19 A Yes. 20 Q Or close to there? 21 A Right. He lived in Lithonia. 22 Q He lived in Lithonia? 23 A Right.</p> <p style="text-align: right;">Page 44</p>

11 (Pages 41 to 44)

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<p>1 <b>Q How big a house did he have?</b>  2 A It's a pretty good size. It was like  3 a -- he got a kitchen, you know, living room,  4 and then upstairs is like three bedrooms and a  5 bathroom.  6 <b>Q Is Donald Ware married?</b>  7 A No.  8 <b>Q Was anybody living with him? Was he by</b>  9 <b>himself?</b>  10 A He was by himself.  11 <b>Q Does he work?</b>  12 A Yes.  13 <b>Q What does he do?</b>  14 A I don't know what he do.  15 <b>Q How about Sandy? Does Sandy work?</b>  16 A Yes.  17 <b>Q What does he do?</b>  18 A The last I knew, he was working with  19 one of the ambulances. I don't know if it  20 was --  21 <b>Q Okay.</b>  22 A I don't know which one it was.  23 <b>Q You don't know what he does for the</b></p> <p style="text-align: right;">Page 45</p>	<p>1 <b>Q How long -- if this accident -- I mean,</b>  2 <b>this incident in Atlanta is February the 19th of</b>  3 <b>2005. How long had you known Valerie Ware?</b>  4 A Since '04.  5 <b>Q Do you know when in '04?</b>  6 A I know my last surgery was in August,  7 and then, you know, we started talking after  8 that, after August '04.  9 <b>Q How many times had you been out with</b>  10 <b>Valerie as of February of '05?</b>  11 A A lot of times.  12 <b>Q Here in Montgomery?</b>  13 A Yes.  14 <b>Q And then the only two -- had you been</b>  15 <b>out of town with Valerie any time other than the</b>  16 <b>first time you went over to see Donald Ware and</b>  17 <b>the second time you went over to see Donald Ware</b>  18 <b>in February of '05?</b>  19 A No.  20 <b>Q When you say a lot of times you've been</b>  21 <b>out here in Montgomery -- the Montgomery area --</b>  22 <b>with Valerie, can you put a number on that?</b>  23 A I'm going to say at least -- at least</p> <p style="text-align: right;">Page 47</p>
<p>1 <b>ambulance service? Is he a driver or</b>  2 <b>stretcher --</b>  3 A He helps, you know, whatever.  4 <b>Q Paramedic-type person?</b>  5 A Uh-huh.  6 <b>Q And how about Ricky? Does Ricky work?</b>  7 A Yeah. Ricky works at the post office.  8 <b>Q Okay. And Valerie, does she work?</b>  9 A Yes.  10 <b>Q Where does she work?</b>  11 A She works at a doctor's office in  12 Montgomery.  13 <b>Q And is that how you first came to know</b>  14 <b>Valerie?</b>  15 A Yes.  16 <b>Q And that was when you were getting your</b>  17 <b>shoulder worked on?</b>  18 A Yeah.  19 <b>Q Was that after the operation?</b>  20 A Yes.  21 <b>Q What did she do at the doctor's office?</b>  22 A She's, I guess, a secretary. I know  23 she takes appointments and do all that.</p> <p style="text-align: right;">Page 46</p>	<p>1 ten.  2 <b>Q Okay. Is Valerie married?</b>  3 A Yes.  4 <b>Q Was she at the time?</b>  5 A Yes.  6 <b>Q How would you get in touch with her?</b>  7 A Call her on her cell phone or either  8 call the job.  9 <b>Q Call her cell phone?</b>  10 A Yes.  11 <b>Q From your cell phone?</b>  12 A Yes.  13 <b>Q Or else just call the office?</b>  14 A Right.  15 <b>Q What would y'all do the first time that</b>  16 <b>you went over to see her brother? I mean, did</b>  17 <b>you just go over and sit around the house and</b>  18 <b>visit, or did you go out and do something?</b>  19 A Well, he showed us around town a little  20 bit, and I think we went out then. I think we  21 barbequed.  22 <b>Q At his house?</b>  23 A Yes.</p> <p style="text-align: right;">Page 48</p>

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<p>1 Q And then y'all spent the night there at 2 his house? 3 A Yes. 4 Q Did you come back the next day? Did 5 you stay over there one night? 6 A Yeah, I think we stayed there one 7 night. 8 Q What car did you drive over there the 9 first time? 10 A I drove my Mustang the first time. 11 Q And at that time was it still just you 12 and Valerie in the car? 13 A Yes. 14 Q The second time that you went you 15 stayed in the motel. Any reason you stayed in 16 the motel other than staying with Donald Ware? 17 A No. 18 Q What did you do -- you were over there 19 that time two nights; right? 20 A Yes. 21 Q Okay. 22 A That was like a weekend thing. We had 23 planned it.</p> <p style="text-align: right;">Page 49</p>	<p>1 haven't you, Mr. Long? 2 A Yes. 3 Q And now you're talking to me; right? 4 A (Witness nods head.) 5 Q Now, on previous occasions, I know 6 you've talked to Mr. Todd Smith and he took a 7 recording of that? 8 A Right. 9 Q And then you talked to -- gave an 10 examination under oath. We looked at Exhibit 10 11 to your deposition. That was to Ms. Angela 12 Taylor, a lady lawyer; right? 13 A Right. I think he was there, too, 14 though. 15 Q Mr. Todd Smith was? 16 A Yeah. 17 Q I believe he was. And then you've also 18 talked to other people from State Farm from time 19 to time, haven't you? 20 A No, not really. 21 Q Well, let me ask you. Do you remember 22 ever talking to a lady named Pearlie Harris -- 23 A No.</p> <p style="text-align: right;">Page 51</p>
<p>1 Q And what did you do that first night, 2 the night of February the 18th when you got 3 there? 4 A Well, once we got there, we checked in 5 the hotel and then we went to Donald's house and 6 went and got something to eat. And then I think 7 we came back to Donald's house, sat around for a 8 minute, then me and Val went to the hotel and 9 the rest of them went out. 10 Q So you and Valerie go back to the hotel 11 and everybody else goes out somewhere? 12 A Right. 13 Q Do you know where they went? 14 A No. 15 Q Do you know what time they came in? 16 A No. 17 Q Did you and Valerie go on to bed that 18 night? 19 A Yes. 20 Q Let me get back to one thing that I 21 wanted to ask you about. In one of your 22 previous -- you know, you've given -- talked to 23 the insurance company on a number of occasions,</p> <p style="text-align: right;">Page 50</p>	<p>1 Q -- who called you about your 2 homeowner's claim? Let me show you -- this, 3 again, is a transcript, and I think this was 4 typed from a recording. I put it in here 5 somewhere. I'm going to show you -- we'll mark 6 that in a minute. But I want you to look at it 7 and see if that refreshes your recollection 8 about talking to Pearlie Harris. 9 A I mean, where did I talk to her at? 10 Q That looks like it's a telephone 11 interview. It starts off and says this is 12 Pearlie Harris in Fire Claims Central 13 interviewing Mr. Martin Long on Monday, February 14 21st. The year is 2005. The time is 15 approximately 1:17 p.m. This is concerning the 16 theft which occurred on or about February the 17 19th in the year 2005. And then it gives a 18 claim number and a policy number, and then she 19 asks you some questions. Does that refresh your 20 recollection, or do you have any recollection 21 of -- 22 A No. 23 Q -- talking to Pearlie Harris on the</p> <p style="text-align: right;">Page 52</p>

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<p>1 telephone?</p> <p>2 A No, I don't.</p> <p>3 Q Okay. Let's go ahead and mark it so</p> <p>4 we'll at least know what we're talking about.</p> <p>5</p> <p>6 (Whereupon, Defendant's Exhibit</p> <p>7 Number 13 was marked for identification</p> <p>8 and copy of same is attached hereto.)</p> <p>9</p> <p>10 Q All right. Now, you also have --</p> <p>11 whether or not the statements have been recorded</p> <p>12 or not, you have talked to people from State</p> <p>13 Farm, including Mr. Smith, from time to time;</p> <p>14 right?</p> <p>15 A Right.</p> <p>16 Q I mean, to communicate with them about</p> <p>17 the loss; right?</p> <p>18 A Right.</p> <p>19 Q Tell them what you knew about it;</p> <p>20 right?</p> <p>21 A Right.</p> <p>22 Q Okay. Did you keep any kind of log or</p> <p>23 record of any off those telephone conversations?</p> <p style="text-align: right;">Page 53</p>	<p>1 Q Okay.</p> <p>2 A I didn't go to school or nothing with</p> <p>3 them.</p> <p>4 Q Okay. I mean, but you knew their last</p> <p>5 name was Ware?</p> <p>6 A No, I didn't know what their last name</p> <p>7 was.</p> <p>8 Q You didn't know the last name for Ricky</p> <p>9 or Donald or Sandy?</p> <p>10 A No.</p> <p>11 Q But you knew -- at the time you gave</p> <p>12 this examination under oath, you knew Valerie's</p> <p>13 name was Ware?</p> <p>14 A Right. But I didn't know nothing about</p> <p>15 Temple.</p> <p>16 Q Did you know at the time you gave this</p> <p>17 statement that Ricky -- excuse me -- the</p> <p>18 examination under oath that's Exhibit 10, did</p> <p>19 you know at that time that Donald, Ricky, and</p> <p>20 Sandy's last name was Ware?</p> <p>21 A No.</p> <p>22 Q Okay. So the only thing you knew at</p> <p>23 the time about last names was you knew that one</p> <p style="text-align: right;">Page 55</p>
<p>1 A No, I didn't.</p> <p>2 Q Okay. Now, in your examination under</p> <p>3 oath, the one that's Exhibit 10 to today's</p> <p>4 deposition, the one that you gave to the lady</p> <p>5 lawyer, the one when Mr. Smith was present, in</p> <p>6 that examination under oath, you said that you</p> <p>7 did not know Valerie's last name?</p> <p>8 A (Witness nods head.)</p> <p>9 Q Was that true at the time?</p> <p>10 A Yes. All I knew was Valerie Ware, but</p> <p>11 it's like Valerie Ware Temple.</p> <p>12 Q At the time you knew her last name --</p> <p>13 one of her last names was Ware; right?</p> <p>14 A Right.</p> <p>15 Q You just didn't know about the Temple</p> <p>16 on the end?</p> <p>17 A Right.</p> <p>18 Q But you did know about the Ware?</p> <p>19 A Yes.</p> <p>20 Q Because you knew her brothers were</p> <p>21 named Ware; right?</p> <p>22 A Right. But I knew her brothers through</p> <p>23 her. I met them through Val.</p> <p style="text-align: right;">Page 54</p>	<p>1 of Valerie's last names was Ware?</p> <p>2 A Right.</p> <p>3 Q Okay. What doctor's office did she</p> <p>4 work at?</p> <p>5 A Dr. Chung, Tai Chung.</p> <p>6 Q That's the one who was going to work on</p> <p>7 your shoulder?</p> <p>8 A Yes.</p> <p>9 Q Did he do the actual operation?</p> <p>10 A Yes.</p> <p>11 Q Have you had a good result with it, you</p> <p>12 think?</p> <p>13 A I guess. I mean, I still have pain in</p> <p>14 it. It still locks up at times, but it ain't</p> <p>15 hurting like it was.</p> <p>16 Q Did you know that Ware was Valerie's</p> <p>17 maiden name?</p> <p>18 A Yeah.</p> <p>19 Q How did you know that? Did she tell</p> <p>20 you?</p> <p>21 A Yeah, once we got to talking.</p> <p>22 Q And that would be getting to know each</p> <p>23 other at the doctor's office?</p> <p style="text-align: right;">Page 56</p>



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<p>1 A Yeah. I mean, I thought that was like 2 her married name or whatever. I didn't know 3 that was, you know...</p> <p>4 Q Well, you knew one of her names was 5 Ware; right?</p> <p>6 A Right.</p> <p>7 Q So the only one that you didn't know 8 was the Temple; right?</p> <p>9 A Right.</p> <p>10 Q How did you find out that your car was 11 missing -- the morning of February the 19th, you 12 and Valerie had gone back that night before. 13 Everybody else was gone out on the town. 14 They've come in, I suppose. You don't know when 15 they came in. But that kind of sets the stage. 16 Now, how do you find out your car is missing?</p> <p>17 A Because Ricky's girl Felicia had called 18 because I think she went to Wal-Mart or went to 19 get something to eat or something, but she had 20 called and asked Val where we were and Val said 21 we were in the room. She was like Martin's car 22 is gone. She said what do you mean it's gone. 23 She said his car is gone. She said the only</p> <p style="text-align: right;">Page 57</p>	<p>1 Q You thought there was a possibility 2 that somebody might steal something?</p> <p>3 A No, it wasn't no possibility but things 4 happen.</p> <p>5 Q I understand that. I'm asking you if 6 things happen is that why you parked in front of 7 the camera because you thought there was a 8 possibility that someone might steal something?</p> <p>9 A Yeah.</p> <p>10 Q So you tried to park it under the 11 camera where the camera would see it?</p> <p>12 A Yes, I did park it there.</p> <p>13 Q You did park it under the camera?</p> <p>14 A Right.</p> <p>15 Q All right. And how far was that place 16 that you parked from the front of the -- where 17 you walked into the hotel or motel?</p> <p>18 A Maybe 25, 30 yards.</p> <p>19 Q Okay.</p> <p>20 A And I parked like right up under some 21 light, too. Because right above the hill was 22 this gas station from where I parked it.</p> <p>23 Q So you intentionally parked it under</p> <p style="text-align: right;">Page 59</p>
<p>1 thing in his spot is glass. So that's when she 2 woke me up and she woke up Ricky and them. 3 That's when we went outside and discovered that 4 my car was gone.</p> <p>5 Q What time of day was that?</p> <p>6 A It was that morning.</p> <p>7 Q Do you know what time?</p> <p>8 A It was kind of early. I think about 9 maybe seven, eight. Something like that.</p> <p>10 Q And what did you do when you found out?</p> <p>11 A Well, I went to the desk and asked the 12 guy about the camera, because where I parked, I 13 parked right in front of the camera. And he 14 said it wasn't working.</p> <p>15 Q The guy at the desk said that?</p> <p>16 A Yes.</p> <p>17 Q Did you intentionally park under the 18 camera?</p> <p>19 A That's right.</p> <p>20 Q Why?</p> <p>21 A Because I was in the Vette. I didn't 22 think nothing was going to happen but I wanted 23 to be for sure.</p> <p style="text-align: right;">Page 58</p>	<p>1 that camera and you also parked it where there 2 was some light?</p> <p>3 A Right.</p> <p>4 Q Okay. You had had trouble before with 5 having someone take a Corvette; right?</p> <p>6 A Right. But that was at home.</p> <p>7 Q You had had guns stolen out of your 8 house, too; right?</p> <p>9 A Right.</p> <p>10 Q So you had had experience with people 11 taking things from you?</p> <p>12 A Yes.</p> <p>13 Q So you were parking under the camera 14 because you knew there was a possibility 15 somebody might take something?</p> <p>16 A Yes.</p> <p>17 Q All right. Now, early in the morning, 18 Felicia calls -- it may not be early. I guess 19 it depends on what time you get up in the 20 morning. But seven o'clock, 7:15, something 21 like that -- Felicia calls Valerie to tell her 22 that your car is missing?</p> <p>23 A Right. Well, no. She called to ask to</p> <p style="text-align: right;">Page 60</p>

15 (Pages 57 to 60)

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1 see where we were.

2 **Q See where y'all were?**

3 **A Then Valerie said we was in the room.**

4 **Q So she called Val on Val's cell phone?**

5 **A Yes.**

6 **Q And did she at that time tell Val that**  
7 **your car was missing?**

8 **A Yes.**

9 **Q Did she tell Val at that time that**  
10 **there was glass where your car used to be?**

11 **A Yes.**

12 **Q How do you know she told Val that?**

13 **A Because Val woke me up and told me**  
14 **that.**

15 **Q You were still asleep?**

16 **A Yes.**

17 **Q How did Felicia know where your car was**  
18 **parked?**

19 **A She had to see it.**

20 **Q When did she see it?**

21 **A I don't know when she saw it. I don't**  
22 **know if she saw it when she was coming in from**  
23 **the club or when she left. No, she couldn't**

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1 have saw it when she left out that morning. So  
2 she had to see it when she come in from the --  
3 when they came in from the club.

4 **Q All right. So you went straight**  
5 **downstairs and asked the desk clerk about the**  
6 **camera?**

7 **A Yes.**

8 **Q That's the first thing you did?**

9 **A No. The first thing I did was I walked**  
10 **out there to make sure. And I looked in my spot**  
11 **and there was glass in my spot where my car was.**

12 **Q How much glass?**

13 **A Just a lot of shattered glass.**

14 **Q Okay. When you say a lot, are we**  
15 **talking about -- I mean, can you tell me? Do**  
16 **you have an idea of how much that would be?**

17 **A I mean, it was the passenger's side**  
18 **window. So I don't know. Half was probably in**  
19 **the seat and half was on the ground or all of it**  
20 **was on the ground or whatever.**

21 **Q So there's some glass on the ground.**  
22 **The car is not where you left it; right?**

23 **A Right.**

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1 **Q You go back inside then?**

2 **A Right.**

3 **Q And that's when you talked to the desk**  
4 **clerk?**

5 **A Yes.**

6 **Q And you asked him where the camera is**  
7 **or where the film is?**

8 **A Yeah.**

9 **Q Okay. And what did he say?**

10 **A He said the camera is not working.**

11 **Q Had you asked him before about the**  
12 **camera?**

13 **A No. I mean, I just took for granted**  
14 **the camera was working.**

15 **Q And what did you tell him when he said**  
16 **the camera wasn't working?**

17 **A I told him my car got stolen.**

18 **Q And what did you do then?**

19 **A Well, I know I asked him about the**  
20 **manager, and he was like the manager will be in**  
21 **later on this evening. Then I got the police**  
22 **number.**

23 **Q Now, did he tell you the camera wasn't**

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1 **working, or did he tell you you'd have to ask**  
2 **the manager about it?**

3 **A No. He said the camera wasn't working.**

4 **Q Did you ask him why?**

5 **A Yeah, he said something about the**  
6 **manager. I mean, he said something about him.**  
7 **And that's when he said he'll be in that**  
8 **evening. I said, okay, I'll come down and talk**  
9 **to him that evening.**

10 **Q But you're sure the desk clerk told you**  
11 **at that time that the camera wasn't working?**

12 **A Right.**

13 **Q Then what did you do after you learned**  
14 **the camera wasn't working? What's the next**  
15 **step?**

16 **A Well, I just went back -- like I said,**  
17 **I got the number and I went upstairs and called**  
18 **the police.**

19 **Q You called the police?**

20 **A Yeah.**

21 **Q All right. Where did you get the**  
22 **telephone number to call the police?**

23 **A From the desk.**

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16 (Pages 61 to 64)

## MARTIN O. LONG

<p>1 Q Okay. Did he look it up for you, or 2 did you look it up? 3 A I don't know. I mean, well, we could 4 have looked it up in the room. I ain't going to 5 pinpoint and say he give me the number. I know 6 he either gave us the number or we looked it up 7 when we got back in the room. 8 Q Did you call the police on the cell 9 phone or on the motel phone? 10 A I think I called on my cell phone. I 11 think me and Sandy called the police. 12 Q You and Sandy? 13 A Right. 14 Q Sandy is involved by now? 15 A Yeah. 16 Q Was Sandy Felicia's boyfriend? 17 A No. That was Ricky. 18 Q Ricky. How did Sandy get down to the 19 desk area? 20 A Val woke all of them up. 21 Q So everybody come downstairs? 22 A Yes. 23 Q So your recollection now is that you</p> <p style="text-align: right;">Page 65</p>	<p>1 A Yeah, I think she gave me an 800 2 number. 3 Q Okay. And did you call it then? 4 A Yes. 5 Q Do you remember whether you called the 6 insurance -- State Farm before or after you 7 called the police? 8 A I think I called the police first. 9 Q Do you remember about what time you 10 called the police? 11 A Do I remember what time I called the 12 police? 13 Q Yes. 14 A No. I know it wasn't -- I don't know. 15 Maybe eight, nine maybe, I guess. 16 Q You've seen -- and I think y'all went 17 over it in this EUO -- the police report where 18 the time they had stamped on there was like 19 11:17? 20 A I called way before 11:17. I know I 21 had to call them back to finish a report. I 22 called them way before 11:17. I know when I 23 called the lady, told me to call them back once</p> <p style="text-align: right;">Page 67</p>
<p>1 and Sandy called the police? 2 A Right. Because I called them, and then 3 I hung up from them and I called my insurance. 4 And I think he had called then because they 5 never showed up. 6 Q The police never showed you? 7 A No. They never showed up. They took 8 the report over the phone. 9 Q Let me go back and ask you about 10 calling the insurance. Did you call the 11 insurance, or did you call your niece about 12 getting you a number? 13 A Yeah, I called my niece. 14 Q And who is your niece? 15 A Jackie. 16 Q And who is her -- is that your -- 17 A My mamma -- 18 Q -- sister's -- 19 A My oldest sister's daughter. 20 Q Oldest sister's daughter. And you 21 called Jackie, and Jackie gave you the name of 22 the State Farm -- what did she give you? An 800 23 number?</p> <p style="text-align: right;">Page 66</p>	<p>1 I get everything that I wanted to tell them that 2 was in my car. Something like that. 3 Q Let's go back and let me see if you can 4 help me with that. When you first called, who 5 did you talk to or did Sandy talk to? Who 6 talked to whoever? 7 A Like I say, I think I called first. 8 But I do know both of us called them. 9 Q Okay. And who did you talk to when you 10 talked to them? A lady or a man? 11 A A man or a lady. 12 Q Yes, sir. 13 A I don't know because I talked to a man 14 and a woman before -- I don't know who I talked 15 to first. I think I talked to a girl first. 16 Q Did you report that the car had been 17 stolen? 18 A Yeah. 19 Q Did you tell them where? 20 A Yes. 21 Q Did they ask any questions about it? 22 A Yeah, I'm pretty sure they did. I 23 can't remember what all they asked me, though.</p> <p style="text-align: right;">Page 68</p>

17 (Pages 65 to 68)

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1 I guess the regular procedure that they ask.  
2 **Q How many times did you talk to the**  
3 **De Kalb Police Department -- is it De Kalb**  
4 **Police, or is it De Kalb Sheriff's Department?**  
5 **Which one was it?**  
6 A I think it was the police department.  
7 **Q How many times did you talk to them**  
8 **that day?**  
9 A I think it was at least two.  
10 **Q And the first time was when you called**  
11 **in and then when was the second time?**  
12 A Maybe a little time after that.  
13 **Q I'm sorry. What did you say, sir?**  
14 A I'm saying I'm thinking it was a little  
15 time after that. I called them the first time  
16 because I know -- I think I called them the  
17 first time. Then, like I say, I had talked to  
18 the insurance. I don't know if I hung up with  
19 them. Well, I had to hang up with them to call  
20 them back or something. I can't really remember  
21 the order or exactly how many times I talked to  
22 them.  
23 **Q I mean, why did you call back a second**

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1 A Right.  
2 **Q Look up here at the top where -- of**  
3 **that same page where it's talking about the**  
4 **incident date/time. It says 9:30 and 9:30. You**  
5 **think that's -- you think that's when you called**  
6 **in, or do you think that's -- did you report**  
7 **that the car was stolen at that time? Let me**  
8 **ask you that again. Do you know what that 9:30**  
9 **signifies?**  
10 A No.  
11 **Q Do you have any -- would that be about**  
12 **the time that you called the police department,**  
13 **you think?**  
14 A I think so. I mean, I know it wasn't  
15 no 11 something, almost 12 o'clock.  
16 **Q But that would be almost two hours**  
17 **later -- a little over two hours -- after you**  
18 **first knew that the car was missing?**  
19 A I didn't wait no two hours.  
20 **Q And you don't remember why you would**  
21 **have called back a second time that day?**  
22 A No, unless to check to see what was  
23 taking them so long. But the bottom line was,

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1 time?  
2 A I guess because I didn't get it  
3 straight the first time I talked with them, or  
4 either I was waiting on them to come by or  
5 something. It was something. Because, like I  
6 say, they never ended up coming by at all.  
7 **Q I want to show you what -- this was 13A**  
8 **to your examination under oath. That's the**  
9 **De Kalb police report. Look at the third page**  
10 **of that report.**  
11 A Third page?  
12 **Q Is that -- it may be. Let me see.**  
13 **Maybe that's --**  
14 MR. BURGE: Why don't you go one more?  
15 **Q I'm sorry. I may be -- the third page**  
16 **from the bottom. All right. The second page**  
17 **from the bottom of Exhibit 13A has something at**  
18 **the bottom that says Narrative Title, Initial**  
19 **Report, date entered 2-19-2005, 11:17:42.**  
20 A No. I called them before that.  
21 **Q So whatever that time is, you're saying**  
22 **that time is not -- that 11:17 would not be the**  
23 **time that you first called in; right?**

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1 they never came out there at all.  
2 **Q I understand about that. But I'm just**  
3 **asking if you can remember why you called a**  
4 **second time.**  
5 A That was probably why, to see.  
6 **Q See why they weren't coming?**  
7 A Yeah.  
8 **Q At some time that day, you became aware**  
9 **of the fact that they were not coming out there?**  
10 A Yeah, because they told me.  
11 **Q I want to show you what's the first**  
12 **page of Exhibit 13A, and it's a list of**  
13 **property. Is that the list of property that you**  
14 **say that was in the car at the time that this**  
15 **incident occurred?**  
16 A Yeah.  
17 **Q All right. You gave this list to the**  
18 **De Kalb County Police Department?**  
19 A Yes.  
20 **Q But you didn't give it to them that**  
21 **day. This was a list that you put together**  
22 **after you thought about it some?**  
23 A Right. Yeah, they told me to think

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18 (Pages 69 to 72)



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<p>1 about everything before I make a claim of what I 2 had in there.</p> <p>3 <b>Q And then you called back at some point 4 and gave them a list of the property?</b></p> <p>5 A Yes.</p> <p>6 <b>Q Did you fill out this first page of 7 13A, or did they complete that?</b></p> <p>8 A I guess they did, because I know I 9 ain't typed nothing.</p> <p>10 <b>Q Okay. That's my question. So the 11 total number of times, then, that you've talked 12 to the De Kalb County Police Department to the 13 best of your knowledge is three?</b></p> <p>14 A Are you talking about in all, or are 15 you talking about that day?</p> <p>16 <b>Q In all.</b></p> <p>17 A It was probably more than three in 18 all. I'd say at least three, I guess.</p> <p>19 <b>Q Well, tell me about the other. We know 20 the initial report. Then you say you called 21 them back once that same day?</b></p> <p>22 A Right.</p> <p>23 <b>Q Then you called them back when you</b></p> <p style="text-align: right;">Page 73</p>	<p>1 <b>Q Do you remember who you talked to?</b></p> <p>2 A At State Farm?</p> <p>3 <b>Q Yes, sir.</b></p> <p>4 A No.</p> <p>5 <b>Q What did you tell them?</b></p> <p>6 A I told them my car had gotten stolen.</p> <p>7 <b>Q Okay. Did you tell them at that time 8 that there was some personal property in the 9 car?</b></p> <p>10 A If they asked, I did. I can't 11 remember.</p> <p>12 <b>Q Okay. Do you remember telling them 13 that you were on a shopping spree in Atlanta?</b></p> <p>14 A Yeah.</p> <p>15 <b>Q Why did you tell them that?</b></p> <p>16 A They must have asked me.</p> <p>17 <b>Q Okay. Had you really bought anything 18 in Atlanta?</b></p> <p>19 A Not really.</p> <p>20 <b>Q Why did you tell them you were on a 21 shopping trip in Atlanta if you hadn't bought 22 anything?</b></p> <p>23 A I hadn't had a chance to buy nothing.</p> <p style="text-align: right;">Page 75</p>
<p>1 <b>turned in the list of personal property?</b></p> <p>2 A Right.</p> <p>3 <b>Q Any other times?</b></p> <p>4 A No, not that I can think of.</p> <p>5 MR. NEWMAN: By the way -- and just for 6 the Record so we'll have this -- Defendant's 7 Exhibit 10 has two stickers on it. One on the 8 first page and one on the third page. Same 9 number, Exhibit 10.</p> <p>10 <b>Q When you called this report in to State 11 Farm, were you the one that talked to them or 12 was that Sandy that called them?</b></p> <p>13 A I think I called them.</p> <p>14 <b>Q Okay. But you think maybe both you and 15 Sandy were involved in the initial report to the 16 police department; right?</b></p> <p>17 A Yes.</p> <p>18 <b>Q Now, when you called in to State Farm, 19 did you call the 800 number?</b></p> <p>20 A Yes.</p> <p>21 <b>Q Did you use your cell phone again?</b></p> <p>22 A I think I -- I'm pretty sure I did.</p> <p>23 Because I had my niece get me the number.</p> <p style="text-align: right;">Page 74</p>	<p>1 The car got stolen the first night I got there.</p> <p>2 <b>Q Didn't you tell them that what you had 3 in the car was things that you had bought while 4 you were shopping in Atlanta?</b></p> <p>5 A Huh-uh. Couldn't have told them that. 6 I bought some stuff before I got to Atlanta. I 7 didn't have no chance to do no shopping in 8 Atlanta.</p> <p>9 <b>Q Did the Corvette run all right by the 10 way? You didn't have any trouble with it, did 11 you?</b></p> <p>12 A Oh, no.</p> <p>13 <b>Q Was there any particular reason you 14 picked out to stay at the Country Hearth hotel?</b></p> <p>15 A No. I know it was right around the 16 corner from their brother's house.</p> <p>17 <b>Q Did you make a reservations ahead of 18 time, or did y'all just pull in?</b></p> <p>19 A Just pulled in. I think we just pulled 20 in. I don't think we made no reservation.</p> <p>21 <b>Q Did you get there before -- did y'all 22 caravan over there?</b></p> <p>23 A Right.</p> <p style="text-align: right;">Page 76</p>

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<p>1 Q All three cars?</p> <p>2 A Yes.</p> <p>3 Q This is Saturday morning. Were you</p> <p>4 able to arrange or did someone make arrangements</p> <p>5 to get a rental car for you?</p> <p>6 A Yes.</p> <p>7 Q Who was that?</p> <p>8 A I made arrangements.</p> <p>9 Q You made arrangements?</p> <p>10 A Through State Farm.</p> <p>11 Q You made arrangements. Did State Farm</p> <p>12 tell you who to call?</p> <p>13 A Yes.</p> <p>14 Q Enterprise, or was it someone else?</p> <p>15 A I don't remember who it was.</p> <p>16 Q But they gave you the name of some</p> <p>17 rental car company?</p> <p>18 A Right.</p> <p>19 Q Did they come to you, or did you have</p> <p>20 to go out there and pick up the car?</p> <p>21 A I had to go get it.</p> <p>22 Q Do you remember where you went to pick</p> <p>23 it up?</p> <p style="text-align: right;">Page 77</p>	<p>1 club Saturday night.</p> <p>2 Q Okay.</p> <p>3 A I mean, I wasn't really -- I was upset</p> <p>4 but I just -- I was like, okay, well, I've got</p> <p>5 full coverage so they going to take care of it.</p> <p>6 It didn't really, you know, sink in or really</p> <p>7 just -- I ain't really get like pissed-pissed</p> <p>8 until the dude just kept jiving me around.</p> <p>9 Q When you say the dude is that Todd</p> <p>10 Smith?</p> <p>11 A Yes.</p> <p>12 Q Is he pretty much the one that you</p> <p>13 dealt with the most at State Farm?</p> <p>14 A Yes.</p> <p>15 Q When did you find out that the -- that</p> <p>16 there was a limit on -- dollar limit on the</p> <p>17 amount of coverage for personal property in a</p> <p>18 car under your automobile policy?</p> <p>19 A I don't know if I asked them that or</p> <p>20 what. I don't know.</p> <p>21 Q When did you find out that there was</p> <p>22 only -- my question is, when did you find out</p> <p>23 that your automobile policy only covered a</p> <p style="text-align: right;">Page 79</p>
<p>1 A No, not exactly.</p> <p>2 Q How far from where you were was it?</p> <p>3 A I don't think it was too far. But</p> <p>4 Donald, he took us where it was because we</p> <p>5 didn't know how to get there.</p> <p>6 Q So by this time, Donald has left his</p> <p>7 house and come over to the motel?</p> <p>8 A Either he came over there or we went to</p> <p>9 where he was. You know, one of the two. I</p> <p>10 can't remember. I know, whichever way it was, I</p> <p>11 was already set up to go get the rental car by</p> <p>12 that time.</p> <p>13 Q Do you remember about what time of day</p> <p>14 it was that you got the rental car?</p> <p>15 A Huh-uh.</p> <p>16 Q You went ahead and stayed in Atlanta or</p> <p>17 Lithonia for the next night as well, didn't you?</p> <p>18 A Yes.</p> <p>19 Q And then drove the rental car back to</p> <p>20 Montgomery?</p> <p>21 A Right.</p> <p>22 Q What did y'all do Saturday night?</p> <p>23 A Saturday night, I think we went to a</p> <p style="text-align: right;">Page 78</p>	<p>1 certain amount? I think it's \$200 of personal</p> <p>2 property coverage.</p> <p>3 A I think I either asked Leigh or Mike</p> <p>4 Devers.</p> <p>5 Q Okay.</p> <p>6 A I think it was 250.</p> <p>7 Q It might be 250. When did Mike Devers</p> <p>8 tell you that?</p> <p>9 A I mean, I'm thinking I talked to one of</p> <p>10 those. I mean, I don't remember when he, you</p> <p>11 know...</p> <p>12 Q You found that out after the theft</p> <p>13 occurred; right?</p> <p>14 A Yeah, I found that out after the fact.</p> <p>15 Q Right. And then did they then say,</p> <p>16 well, if you've got that loss, you need to turn</p> <p>17 it in on your homeowner policy?</p> <p>18 A Yeah. Now, one of them did tell me</p> <p>19 that.</p> <p>20 Q Do you remember who told you that?</p> <p>21 A No.</p> <p>22 Q Whether it was Mike or Leigh?</p> <p>23 A Right. I don't remember which one it</p> <p style="text-align: right;">Page 80</p>

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1 was.  
2 **Q What's Leigh's last name?**  
3 A I don't know what.  
4 **Q Is it McKenna?**  
5 A All I know is Leigh.  
6 MR. BURGE: Carmichael.  
7 **Q Leigh Carmichael? Does that sound**  
8 **right?**  
9 A I don't know. I know she was a nice  
10 lady. I didn't know her name.  
11 **Q Did your Corvette have an alarm system**  
12 **on it?**  
13 A Yes.  
14 **Q Did you ever hear the alarm system go**  
15 **off?**  
16 A No.  
17 **Q I'm not talking about that night. I'm**  
18 **talking about any time before then.**  
19 A Oh, no.  
20 **Q Did it have one of them little lights**  
21 **that would blink when you would turn it off and**  
22 **lock it?**  
23 A Yes.

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1 **Q Would there be some light that would**  
2 **blink inside of it?**  
3 A Uh-huh.  
4 **Q And that light was blinking?**  
5 A Yeah. You said a blinking light on the  
6 car?  
7 **Q No. Inside the car.**  
8 A No, I don't think that car came with  
9 no -- huh-uh. I don't think it had no blinking  
10 light.  
11 **Q Was there anything that was indicated**  
12 **to you that the alarm system was activated?**  
13 A Yes. Because once you press lock, it's  
14 locked, and then if you keep pressing the lock  
15 every time you press it, boop, boop, the horn  
16 will blow.  
17 **Q That's what indicates that the alarm**  
18 **system is activated?**  
19 A Right.  
20 **Q Okay.**  
21 A That's something you can check, because  
22 once you lock it, you know, with the thing, it's  
23 automatically engaged in then. But you can

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1 press lock again and it will just -- each time  
2 you press like that, the horn will just blow.  
3 **Q And that indicates to you the alarm**  
4 **system is working?**  
5 A Right.  
6 MR. NEWMAN: Off the Record.  
7  
8 (Whereupon, a discussion was held off  
9 the Record.)  
10  
11 BY MR. NEWMAN:  
12 **Q Mr. Long, best as you can -- and I'm**  
13 **not looking for anything exact -- give me a**  
14 **rough idea of where you were parked in relation**  
15 **to the hotel. Can you draw the hotel and the**  
16 **parking places and just very roughly show me**  
17 **kind of where your car was parked, which way it**  
18 **was facing?**  
19 A Let me see. (Witness drawing.)  
20 **Q All right, Mr. Long. What have we got**  
21 **here?**  
22 A That's like the hotel.  
23 **Q You've got it labeled as hotel on**

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1 **there?**  
2 A Uh-huh.  
3 **Q All right, sir.**  
4 A And that's like...  
5 **Q Parking lot out beside it.**  
6 A You know, like the spots for the cars.  
7 You pull up in there.  
8 **Q Yes, sir.**  
9 A Spots right there, also. Then it's  
10 like you go past the hotel to get up in that,  
11 and that area there is like grass.  
12 **Q On the right side there?**  
13 A Right. Because right here is where you  
14 can park and get out and go right into the door  
15 or whatever to get out of the rain.  
16 **Q Yes, sir.**  
17 A But, you know, I didn't draw no cover.  
18 That camera, it was like at the right side of  
19 the door.  
20 **Q So the camera is on the thing that**  
21 **overhangs where you drive your car through?**  
22 A Yeah, you drive your car up under it.  
23 **Q So it's like a little roof area?**

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## MARTIN O. LONG

1 A Yeah. It's out of the rain. Can't no  
2 rain hit it.

3 Q Is the camera out of the rain or is the  
4 camera on top of the roof?

5 A It's up under the thing.

6 Q Under the roof. All right. Was it  
7 pointed out towards where you've got labeled  
8 parking lot?

9 A No. It's pointed this way where my car  
10 is.

11 Q So it's pointed back towards where you  
12 said -- this place that says car is where your  
13 car was?

14 A Right.

15 Q All right.

16 A And then, you know, above here --

17 Q Above where you've written parking lot?

18 A There's like a ladder area and there's  
19 like a big hill, which was a gas station. So  
20 that's the main drag because there was Super  
21 Wal-Mart right across the street.

22 Q Do you know what the main drag is  
23 called?

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1 Q And on it it's got lock, unlock, a  
2 little horn-looking item, and trunk item. So  
3 you're saying if you hit that lock button twice  
4 and it honks, it means that the car alarm is  
5 activated; right?

6 A Right. But what I'm saying is, the  
7 first time you lock it, it's activated.

8 Q And the second time it tells you it's  
9 activated by honking?

10 A If you want to know. Right. That's  
11 what I'm saying.

12 Q All right.

13 A As soon as you lock it, it's activated  
14 then.

15 Q I understand.

16 A Sometimes people do that just to let  
17 people know you've got an alarm. If they hear  
18 that noise...

19 Q Have you been able to find that second  
20 set of keys?

21 A No.

22 Q Have you got any idea where they might  
23 be?

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1 A Huh-uh.

2 Q Okay. That's a good drawing. And how  
3 could you tell that the camera was aimed at your  
4 car?

5 A I mean, you could see it.

6 Q You could tell which way it was aimed?

7 A Yes.

8 MR. NEWMAN: Exhibit 14, that's the  
9 diagram.

10  
11 (Whereupon, Defendant's Exhibit  
12 Number 14 was marked for identification  
13 and copy of same is attached hereto.)  
14

15 Q Thank you, sir. One thing that you  
16 brought to your examination under oath -- and  
17 this was, I think, photographed or Xeroxed and  
18 attached as an exhibit -- were the keys to the  
19 Corvette. Let me show you what has been marked  
20 as Defendant's Exhibit Number 4. That was taken  
21 out of the State Farm file. Is that what your  
22 keys looked like?

23 A Yes.

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1 A No. I mean, they're not in the house.

2 You know, I looked around everywhere. I don't  
3 know. I mean, they could have been in the car.  
4 I don't know.

5 Q Well, now, in your examination under  
6 oath, you were asked if they were in the car and  
7 you said that they were not?

8 A Right.

9 Q Is that true?

10 A At that time, yeah. But if I can't  
11 find them, they got to be somewhere.

12 Q Well, do you think that your extra set  
13 of keys was in the car or not?

14 A Well, they could be. I don't know. I  
15 don't know. If they're not in the house, they  
16 got to be somewhere. They might have been left  
17 in the car.

18 Q You don't have any knowledge one way or  
19 another?

20 A No. All I know is I don't know where  
21 they are at.

22 Q You don't know where they're at?

23 A No.

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22 (Pages 85 to 88)



## MARTIN O. LONG

1 Q Okay. Before, though, Mr. Long, you  
2 said that you were sure that the extra set was  
3 not in your car?

4 A Well, I thought I was. I mean, I  
5 thought I would have found them by now, but I  
6 never found them.

7 Q No. I'm saying you thought the extra  
8 set was not in your car. Oh, I see. You  
9 thought you were going to find them? Is that  
10 what you're saying?

11 A Right.

12 Q But as of this date, you have not found  
13 them?

14 A No, I haven't.

15 Q Now, you've dealt with several State  
16 Farm people since this loss. You've dealt with  
17 Mr. Devers and Leigh Carmichael and some other  
18 people from State Farm, you say, have called you  
19 on the phone from time to time, other than  
20 Mr. Smith now we've talked about; right?

21 MR. BURGE: Object to the form.  
22 Ms. Carmichael I don't think was after the  
23 lawsuit. That's who he got the insurance with

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1 Q Okay. Well, for instance, when you  
2 called in that morning to report the car  
3 stolen --

4 A Oh, okay. That's when that was taken?

5 Q No. I'm not saying that either. But  
6 you didn't talk to Todd Smith then, did you?

7 A No.

8 Q We know you've talked to some other  
9 people other than Todd Smith?

10 A Yes.

11 Q Has everybody been courteous to you?

12 A Yeah.

13 Q How about Todd Smith? Has he been  
14 courteous to you?

15 A I mean, he just ain't really just -- he  
16 just ain't been -- he just never would just talk  
17 straight up and say, okay, we believe you took  
18 your car. He kept jiving me around. You know,  
19 he just never would just man up to what he said  
20 I had did, what he was trying to do. He kept  
21 jiving me around.

22 Q Okay. But I mean --

23 A I had to ask him do y'all -- I said,

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1 at Mike Devers' office.

2 Q I thought you said that after the  
3 accident Ms. Carmichael was the one who told you  
4 that the personal property was not covered under  
5 your auto policy?

6 A It was one of them.

7 Q You don't know whether it was Devers or  
8 Carmichael?

9 A No, I can't remember.

10 Q Fair enough. Fair enough. You've  
11 talked to some people from State Farm other than  
12 Todd Smith and Devers, right, since this loss?  
13 I'm not going to ask you who.

14 A I can't remember. I'm just saying I  
15 can't remember. You showed me some form -- what  
16 was that form you showed me?

17 Q I showed you a transcribed statement  
18 that was taken --

19 A Over the phone?

20 Q Yeah.

21 A And I don't even remember that.

22 Q You don't remember that?

23 A Huh-uh.

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1 man, do y'all think I took my car.

2 Q What did he say?

3 A I snapped out on him. He said yeah.

4 Q When was that?

5 A That was over the phone one day.

6 Q Over the phone?

7 A Yes. He kept saying every time I  
8 talked to him, okay, well -- you know, he said  
9 that he needed a copy of everything, so I gave  
10 him all that. I'm waiting to hear back. He  
11 finally called back and say I need -- no. I  
12 think the first thing I did was talk to him over  
13 the phone. That's when I told him -- you know,  
14 like I said, I wasn't truthful to him the first  
15 time because I didn't want Valerie to get in  
16 trouble because I knew she was married. I knew  
17 I was married, but I knew mine was already --  
18 you know, already settled. We had already  
19 talked about it.

20 Q That's when you talked to him over the  
21 phone?

22 A The first -- no. That was in person.

23 Q In person?

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23 (Pages 89 to 92)

**MARTIN O. LONG**

1 A In Montgomery.  
2 Q And is that when he took -- you know,  
3 he took a recorded statement from you?

4 A That was it.

5 Q That was that time?

6 A Right. As soon as he stopped me and  
7 said that was it, then I told him that I went  
8 down there with Valerie, and he was like, well,  
9 you know, I ain't really worried about that  
10 part. If I knew that I would have told you that  
11 from the beginning. I didn't want to get her in  
12 trouble. I guess I just didn't know what I was  
13 dealing with as far as this insurance.

14 Q Okay.

15 A I guess I didn't think it was that  
16 serious, I guess.

17 Q Other than -- I'm not talking about  
18 Ricky and Sandy and Felicia and Valerie and  
19 Donald. But other than those people, who did  
20 you have conversations with when you were in  
21 Atlanta that weekend, February 19th and 20th?

22 A That's it.

23 Q Well, no. You had conversations with

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1 the clerk, desk clerk?

2 A Oh, yeah, yeah.

3 Q Had conversations with him. He  
4 initially told you that -- you said I'd like to  
5 see the camera, what about the camera. He told  
6 you the camera wasn't working; right?

7 A Right.

8 Q And then you said you wanted to see the  
9 manager; right?

10 A Yeah.

11 Q Anything else you remember about your  
12 conversation between you and the desk clerk?

13 A I think I cussed him out later.

14 Q Anything else?

15 A No.

16 Q How about you and the manager? Did you  
17 have any conversations with him?

18 A Yeah. I asked him about the camera.

19 Q That was later that day?

20 A Yeah.

21 Q What did he say?

22 A He gave me -- I don't know exactly what  
23 he said. He gave me some kind of excuse why it

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1 wasn't working.

2 Q Okay. Anything else you remember about  
3 conversations with the manager?

4 A Huh-uh.

5 Q Okay.

6 A No.

7 Q Why did you cuss -- you say you got mad  
8 at the desk clerk later that day? Why did you  
9 get mad at him?

10 A Well, he just made me mad because he --  
11 when he said that -- the reason why it wasn't  
12 working and the difference in what he and the  
13 manager said was totally different.

14 Q Well, he had told you initially it  
15 wasn't working; right?

16 A Yeah.

17 Q Why did you get mad at him later if the  
18 manager said the same thing?

19 A Well, the manager -- I mean, I guess  
20 the manager put it in a different route. I was  
21 just pissed off. I was just mad.

22 Q Were you mad at the desk clerk for any  
23 particular reason?

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1 A No. I guess I was just mad anyway.

2 Q Do you ever remember saying that the  
3 desk clerk didn't tell you initially that the  
4 camera wasn't working?

5 A Huh-uh.

6 Q You never told that to anybody?

7 A That he said what, now?

8 Q That when you first asked him about the  
9 camera instead of telling you that it wasn't  
10 working that he just said you'll have to talk to  
11 the manager?

12 A Oh, yeah. He did, yeah.

13 Q You just told me when you first talked  
14 to him he told you that it wasn't working.  
15 You're now saying that he told you that you're  
16 going to have to talk to the manager about that?

17 A Yeah.

18 Q So he didn't tell you one way or  
19 another when you first talked to him?

20 A He did say it wasn't working. I asked  
21 him why it wasn't working. He said I got to  
22 talk to the manager.

23 Q He told you it wasn't working, but when

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24 (Pages 93 to 96)

## MARTIN O. LONG

<p>1 you asked him why, he said you've got to talk to 2 the manager? 3 A Yes. 4 Q Then you talked to the manager, the 5 manager said it wasn't working, and then you got 6 mad at the desk clerk; is that right? 7 A Yeah. 8 Q Have you got any reason why you got mad 9 at the desk clerk about that? 10 A I was just mad. 11 Q Any other conversations you had with 12 either the manager or the desk clerk? 13 A No. 14 Q Then you had two conversations when you 15 were in Atlanta with the De Kalb Police 16 Department. You called them then and then you 17 called them back to find out why they hadn't 18 shown up; right? 19 A Yeah. 20 Q All right. And during which of those 21 conversations did you say somebody told you to 22 call back in with the list of property that had 23 been stolen?</p> <p style="text-align: right;">Page 97</p>	<p>1 Q Are you on anything that would affect 2 your ability to answer my questions? 3 A No. 4 Q Okay. I should have asked you that 5 when we started. If you had said yeah, then we 6 would have had to do something else. 7 All right. Now, Mr. Long, I want you 8 to look at what was marked as Defendant's 9 Exhibit 17 to your examination under oath. Tell 10 me if you recognize that, please, sir. 11 A Yeah. 12 Q What is it? 13 A Items that I said was in my vehicle. 14 Is that what you're talking about? 15 Q It's what, now? Say it again, sir. 16 A The items I said was in my vehicle. 17 Q Yes, sir. Is that your handwriting? 18 A Yes. 19 MR. BURGE: What's the date on that 20 first page at the bottom? 21 THE WITNESS: March the 2nd. 22 MR. BURGE: I just couldn't read the 23 first number. Is it a 3? I can't tell.</p> <p style="text-align: right;">Page 99</p>
<p>1 A I don't know. I don't know which call 2 it was. 3 Q Any other conversations with anybody 4 else other than the police department, the 5 manager, and then Sandy and Ricky and Donald and 6 Felicia and Valerie? 7 A Well, State Farm. 8 Q State Farm. What else? That's the 9 reason we're going through them so we can see if 10 we're missing any. 11 A And my niece. 12 Q Your niece. You talked to her on the 13 telephone? 14 A Yeah. 15 Q Anybody else? 16 A I don't think so. 17 Q Okay. You don't take any kind of 18 medication, do you? 19 A Yeah. 20 Q What do you take? 21 A I take pain pills and depression pills. 22 Q Are you on anything today? 23 A No.</p> <p style="text-align: right;">Page 98</p>	<p>1 MR. NEWMAN: It looks like 3-2-05 to 2 me. 3 MR. BURGE: All right. That's fine. 4 Q Did you prepare that at the -- the 5 other stuff that's below Exhibit 17 are other 6 exhibits. But just Exhibit 17, Mr. Long, did 7 you prepare that in order to make a claim on the 8 personal property that was in the Corvette? 9 A Yes. 10 Q Where did you get the values that you 11 got under column number 5 and under column 12 number 6? 13 A I put them values in there myself. 14 Q Where did you get them from, though? 15 What did you use in order to come up with those? 16 A I got some receipts for a couple of 17 them. Then other things, I did on my own, just 18 put a price on them. 19 Q Okay. All right. Let me go through 20 those with you and let's talk about those. On 21 there one of the items that you report is a -- 22 the first one is a three-quarter length black 23 leather jacket?</p> <p style="text-align: right;">Page 100</p>

## MARTIN O. LONG

1 A Right.  
2 Q And you've got a cost of how much on  
3 there?  
4 A \$250.  
5 Q And how did you come up with that cost?  
6 A That's what I paid for it.  
7 Q Where did you purchase it? Do you  
8 remember?  
9 A Yeah. I got that out of Birmingham  
10 years earlier.  
11 Q When did you get it?  
12 A I don't know exactly. I probably had  
13 it maybe three or four years.  
14 Q Three or four years. And you just have  
15 a recollection of buying it for \$250?  
16 A Uh-huh.  
17 Q The next thing you've got is one .45  
18 automatic handgun, and then you've got -- is  
19 that the serial number on it?  
20 A Yes.  
21 Q NWD. How did you get that serial  
22 number?  
23 A From the receipt.

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1 Q You still had the receipt from it?  
2 A Well, I turned it in. I can go get it  
3 from the pawn shop.  
4 Q No. I mean, the receipt, you brought  
5 the receipt to the EUO, didn't you, on that  
6 date?  
7 MR. BURGE: He's asking whether when  
8 you came here the last time and you were asked  
9 questions if you brought the receipt at that  
10 time.  
11 A If he asked for it, I did.  
12 Q Yeah. If you don't understand what I'm  
13 saying, you just stop me and we'll go over the  
14 question again.  
15 MR. BURGE: I think you lost him at the  
16 EUO.  
17 Q EUO is an abbreviation for examination  
18 under oath, which was that -- you know, when I  
19 asked you about Defendant's Exhibit 10 and asked  
20 you if you'd looked at it and read it. You said  
21 it was all correct. You remember that?  
22 A Yes.  
23 Q Well, that is called an EUO sometimes,

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1 and it's an abbreviation. And that's -- I  
2 probably did throw you off when I said that.  
3 A Okay.  
4 Q We're back on what's marked as 17 to  
5 the examination under oath. Okay?  
6 A Okay.  
7 Q All right. And what I asked you about  
8 is where you got the serial number, and you said  
9 you got it off the receipt. And I said did you  
10 bring the receipt with you when you gave your  
11 examination under oath, and I suppose the answer  
12 to that is correct?  
13 A Yes.  
14 Q In this it said that it was purchased  
15 in February of 2005; right?  
16 A Yes.  
17 Q And so that was purchased -- was it  
18 purchased just before or just after the time  
19 that you got the money?  
20 A I think it was after.  
21 Q We can look up the receipt if we need  
22 to.  
23 A Yeah. I can't remember. That's been a

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1 long time ago.  
2 Q Let me see. You've got 17 there. So  
3 it ought to be just a few after that. Look  
4 down -- on what you're looking at, look down two  
5 or three pages and see if you see that receipt  
6 in there.  
7 A Okay.  
8 Q That's...  
9 A The pawn shop.  
10 Q Yeah. There's two from the pawn shop.  
11 I'm not sure which one.  
12 A I got a bracelet from one of them.  
13 599, I think that's the bracelet.  
14 Q What about number 20? 19 looks like  
15 the bracelet.  
16 A Yeah.  
17 Q All right. So 20 is the ticket on the  
18 handgun; right?  
19 A I bought that February 16, 2005.  
20 Q So you bought that just, what, a couple  
21 of days before?  
22 A Yeah. I bought that on a Wednesday or  
23 a Thursday. Yeah, Wednesday.

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26 (Pages 101 to 104)



## MARTIN O. LONG

1 Q And then can you look at the date on  
2 the bracelet and see when you bought it?  
3 A I had the bracelet a couple of years.  
4 I bought that March the 10th of '03.  
5 Q How come you'd have the receipt for the  
6 bracelet if you bought it all the way back in  
7 '03?  
8 A Because it was in my car. I had to go  
9 get everything, all the receipts.  
10 Q I know. How come you'd still have the  
11 receipt on the bracelet?  
12 A Oh, I didn't. I went to the pawn shop  
13 and got it.  
14 Q The pawn shop had a record of it?  
15 A Yes. I don't keep no receipts.  
16 Q Okay. Looking back at your list now of  
17 the personal property. Now, the next thing you  
18 say is \$5,000 cash; right?  
19 A Right.  
20 Q And where physically in the auto was  
21 that \$5,000 cash?  
22 A Between my seats.  
23 Q Was it in an envelope, or was it in a

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1 rubber band? Or how did you have that cash?  
2 A In the envelope. In the middle of the  
3 seats.  
4 Q Was it inside a console?  
5 A Yeah.  
6 Q And was the gun inside a console, too,  
7 the handgun?  
8 A I think my gun was in the back.  
9 Q Under the hatchback?  
10 A (Witness nods head.) Yes.  
11 Q Now, this \$5,000 cash, under this date  
12 of purchase here, you've got 2-2005. What does  
13 that mean? You didn't purchase that cash, did  
14 you?  
15 A No. I withdrew it sometime before I  
16 left.  
17 Q Would you have withdrawn that cash  
18 before you left for your trip?  
19 A Yeah.  
20 Q Would you have withdrawn it from one of  
21 the credit unions?  
22 A Yes.  
23 Q Max?

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1 A Yes.  
2 Q Would it have been from your savings?  
3 A I believe so.  
4 Q And you left -- was it exactly \$5,000?  
5 A I think it was in increments.  
6 Q Tell me what you mean by that.  
7 A Well, I think I got like 2500 one day  
8 and I think I got maybe 2500 another day.  
9 Q All right. Now, so you got a total of  
10 \$5,000 cash. Did you have any cash in your  
11 wallet?  
12 A No. I don't carry no wallet.  
13 Q Do you carry a money clip?  
14 A No.  
15 Q How do you carry your money around?  
16 A I mean, I don't usually carry money  
17 like that. I had it. When I do carry it, I  
18 just carry the money in my front pocket.  
19 Q Front. Well, now, why didn't you take  
20 this cash inside with you?  
21 A I just didn't.  
22 Q I mean, you parked your car underneath  
23 the camera because you're worried about

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1 something happening to it and you leave your  
2 cash and your gun in the car?  
3 A Yeah.  
4 Q All right. The next thing it says  
5 three suits. Are these suits that have the  
6 matching pants and coats?  
7 A Yeah.  
8 Q And down here you've got that you  
9 purchased them in February of 2005 for \$600?  
10 A Yeah.  
11 Q I guess that would be \$200 apiece;  
12 right?  
13 A Uh-huh.  
14 Q Is that a yes?  
15 A Oh, I mean, I've got them on here, but  
16 I ain't purchased them in February.  
17 Q When did you purchase them?  
18 A I had them for a minute.  
19 Q What do you mean a minute? How long is  
20 a minute?  
21 A I hadn't really bought nothing from  
22 that store in over a year.  
23 Q Over a year?

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## MARTIN O. LONG

<p>1 A (Witness nods head.)</p> <p>2 Q Is that right?</p> <p>3 A Right.</p> <p>4 Q Now, when you gave your statement</p> <p>5 before, this examination under oath, you told</p> <p>6 them you had bought them that same month, didn't</p> <p>7 you?</p> <p>8 A Yeah, I did.</p> <p>9 Q Why did you lie about it?</p> <p>10 A Because I was pissed off at the</p> <p>11 insurance.</p> <p>12 Q Why would that make a difference?</p> <p>13 A It would make a lot of difference. I</p> <p>14 was trying to -- whatever I could say I had in</p> <p>15 that car I was going to say I had it in there.</p> <p>16 Q Well, did you have the suits in there?</p> <p>17 A No.</p> <p>18 Q So you didn't have the suits in there?</p> <p>19 A No. I mean, yeah, I had them in there,</p> <p>20 but I didn't buy them when I say I bought them.</p> <p>21 Q When did you buy them?</p> <p>22 A I had them for a while.</p> <p>23 Q You had them for about year, you said?</p> <p>Page 109</p>	<p>1 on this examination under oath you said that</p> <p>2 they did cost \$600 and that you did buy them in</p> <p>3 February 2005; right?</p> <p>4 A Right.</p> <p>5 Q And the only reason you can tell me</p> <p>6 that you did that was because you were pissed</p> <p>7 off at the insurance company?</p> <p>8 A Because that is why I did it.</p> <p>9 Q Okay. Because you're trying to get</p> <p>10 something that you're not entitled to?</p> <p>11 A Not really get something I'm not</p> <p>12 entitled to. I was just pissed off at them for</p> <p>13 putting me through what they put me through.</p> <p>14 Saying I stole my own car.</p> <p>15 Q So you put down -- on your personal</p> <p>16 property claim, you put down more than what you</p> <p>17 said you were -- more than what you really had;</p> <p>18 right?</p> <p>19 A Right.</p> <p>20 Q All right. And you were pissed off at</p> <p>21 them why? Because they told you you stole your</p> <p>22 own car?</p> <p>23 A Right.</p> <p>Page 111</p>
<p>1 A Or more.</p> <p>2 Q A year or more?</p> <p>3 A Yeah.</p> <p>4 Q How much more?</p> <p>5 A Maybe a year or two years.</p> <p>6 Q Okay. Do you know how much you paid</p> <p>7 for them a couple of years ago?</p> <p>8 A I know it wasn't no \$600.</p> <p>9 Q Why did you put \$600 down there?</p> <p>10 A I just told you. I was mad at the</p> <p>11 insurance.</p> <p>12 Q You were trying to get something that</p> <p>13 you weren't entitled to?</p> <p>14 A Yeah. Same way they trying to do me.</p> <p>15 That's why I was pissed off at them.</p> <p>16 Q So you wrote down something that you</p> <p>17 weren't -- you wrote down the date of purchase</p> <p>18 February 2005 and that was wrong; right?</p> <p>19 A Right.</p> <p>20 Q And you wrote down \$600 and that was</p> <p>21 wrong?</p> <p>22 A Right.</p> <p>23 Q And then when you were sworn under oath</p> <p>Page 110</p>	<p>1 Q When did they tell you that?</p> <p>2 A They didn't up and just straight --</p> <p>3 well, it's like this. The dude kept jiving me</p> <p>4 around. I had to pretty much make them tell me</p> <p>5 that. You know, he kept saying give me 30 more,</p> <p>6 blah, blah, blah. And then I just finally asked</p> <p>7 him. I said, man, y'all think I stole my car.</p> <p>8 And he said yeah.</p> <p>9 Q How far into the deal was that? How</p> <p>10 long after February the 19th was it that you</p> <p>11 finally told him, hey, dude, do you think I</p> <p>12 stole my car and he said yeah?</p> <p>13 A It was a couple of weeks or either the</p> <p>14 same week that I called my lawyer. Once I</p> <p>15 confronted him -- because he never would say</p> <p>16 what he was doing. But, like I say, once I</p> <p>17 asked him that question and he said yeah,</p> <p>18 within -- sometime within that time frame,</p> <p>19 that's when I called Mr. Tucker.</p> <p>20 Q Was it after he got that statement from</p> <p>21 you? Do you remember when you got that recorded</p> <p>22 statement? Was it after that time that you</p> <p>23 confronted him and said, hey, man --</p> <p>Page 112</p>

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<p>1 A Oh, after this time here?</p> <p>2 Q No, sir. Just listen to what I'm</p> <p>3 asking you, now. What I'm trying to do is to</p> <p>4 find out the time that you confronted him and</p> <p>5 got mad at him and said, hey, man, are you</p> <p>6 saying I stole my car and he said yeah. When</p> <p>7 was that?</p> <p>8 A I don't know.</p> <p>9 THE WITNESS: Can I...</p> <p>10 Q You can ask him. I don't --</p> <p>11 MR. BURGE: If you don't know the</p> <p>12 answer, tell him you don't know the answer.</p> <p>13 A I don't know the answer.</p> <p>14 Q Do you remember the time that he took a</p> <p>15 recorded statement from you?</p> <p>16 A Yeah. That was --</p> <p>17 Q And that was the time that you remember</p> <p>18 you told him you were going over there by</p> <p>19 yourself and then after you finished the</p> <p>20 recorded statement you told him, you said, well,</p> <p>21 now, wait a minute, I was over there with a</p> <p>22 woman that night?</p> <p>23 A Right.</p> <p style="text-align: right;">Page 113</p>	<p>1 A Right.</p> <p>2 Q Okay. Now, that statement was taken</p> <p>3 March 31, 2005?</p> <p>4 A That one?</p> <p>5 Q Yes, sir. Exhibit 10.</p> <p>6 A The other one was before that.</p> <p>7 Q The other one was before that?</p> <p>8 A You know, the very first one.</p> <p>9 Q Now, when you got mad at him and said,</p> <p>10 hey, man, are you saying I stole my car, was it</p> <p>11 before or after the time that you gave this</p> <p>12 statement, Exhibit 10, that I'm holding up in my</p> <p>13 hand?</p> <p>14 A It was after that.</p> <p>15 Q After Exhibit 10?</p> <p>16 A Because I had did everything he told me</p> <p>17 to do.</p> <p>18 Q So you had done everything he told you</p> <p>19 to do. You'd given him a recorded statement,</p> <p>20 you had given him -- you had come in and brought</p> <p>21 all these documents with you; right?</p> <p>22 A Right.</p> <p>23 Q You'd told him everything in this</p> <p style="text-align: right;">Page 115</p>
<p>1 Q It was after that that you confronted</p> <p>2 him, wasn't it?</p> <p>3 A Yeah.</p> <p>4 Q Well, not right after that, but it was</p> <p>5 after that in point of time that you confronted</p> <p>6 him?</p> <p>7 A Right.</p> <p>8 Q How many weeks after that, giving that</p> <p>9 statement, was it?</p> <p>10 A I don't know. It probably was a month</p> <p>11 and a half or maybe two months. Because after</p> <p>12 that, I had another question and answer with --</p> <p>13 you know, with him and another lady.</p> <p>14 Q Okay. Yeah. That's the one we're</p> <p>15 talking about here.</p> <p>16 A Yeah. See, I had all that before.</p> <p>17 Q I know. First of all, you gave him a</p> <p>18 recorded statement, and then after you gave him</p> <p>19 the recorded statement, then you came in -- as a</p> <p>20 matter of fact, you came into this office and a</p> <p>21 lady took this recorded statement that's Exhibit</p> <p>22 10 from you under oath and you gave those</p> <p>23 answers; right?</p> <p style="text-align: right;">Page 114</p>	<p>1 statement here that's Defendant's Exhibit 10,</p> <p>2 answered all those questions; right?</p> <p>3 A Right.</p> <p>4 Q Ordered a credit report?</p> <p>5 A Right.</p> <p>6 Q So after doing all that and you still</p> <p>7 hadn't gotten paid, that's when you confronted</p> <p>8 him and you said, hey, man, you're jiving me</p> <p>9 around; do you think I stole my car?</p> <p>10 A Right.</p> <p>11 Q And it was then that he said yes and it</p> <p>12 was then you got mad?</p> <p>13 A Right.</p> <p>14 Q Okay. So it was -- at least in point</p> <p>15 of time, one thing we know is that that happened</p> <p>16 sometime after March 31, 2005, which is the date</p> <p>17 of Exhibit 10; right?</p> <p>18 A Right.</p> <p>19 Q Okay. Now, let's keep going. We</p> <p>20 talked about the suits. Now, let's talk about</p> <p>21 the pantsuits. What's a pantsuit? Is that like</p> <p>22 just pants and a shirt or something that match?</p> <p>23 A Yeah.</p> <p style="text-align: right;">Page 116</p>

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1 Q Okay. And on that one, again, you say  
2 you bought it in February 2005 in Montgomery for  
3 \$180, and you're going to tell me now that  
4 that's not correct?  
5 A Right.  
6 Q But in this statement that you gave  
7 that's Exhibit 10, you said it was correct;  
8 right?  
9 A Right.  
10 Q All right. And then we've got four  
11 pairs of shoes bought in Montgomery in February  
12 of 2005 for \$1,100, and you're going to tell me  
13 now -- and in your statement that's Exhibit 10,  
14 you said that was when you bought them and  
15 that's what they cost; right?  
16 A Right. But I only had two pairs of  
17 shoes and I bought them before February.  
18 Q So really there weren't four pairs of  
19 shoes in the car, there were only two; right?  
20 A Right.  
21 Q The second thing you're telling me is  
22 that you bought them before February of 2005?  
23 A Right.

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1 Q All right. And all of these things  
2 here, these three items -- the three suits, the  
3 two pantsuits, and the -- what you had is the  
4 four pairs of shoes, but you're now saying two  
5 pairs of shoes -- the cost of them are not  
6 correct and in addition you didn't buy them in  
7 February of 2005; right?  
8 A Right.  
9 Q Again, why did you put those down?  
10 Because you were mad at the insurance company?  
11 A Yes.  
12 Q Okay. Because you felt like they were  
13 jacking you around?  
14 A Well, they accused me of something I  
15 didn't do.  
16 Q Now, we go on to the next one, which is  
17 four bracelets. Did you really buy the  
18 bracelets?  
19 A Yes.  
20 Q You did really buy the bracelets?  
21 A Yes.  
22 Q Did you really buy the bracelets in --  
23 is that 2-2005 again?

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1 A Some of them. Like I said, the receipt  
2 on the one I bought, I bought that back in '03.  
3 Q Okay.  
4 A From the pawn shop.  
5 Q You brought the receipt for that one?  
6 A (Witness nods head.)  
7 Q How much was that? Look on that  
8 receipt there, how much you paid for it. It was  
9 \$500?  
10 A 599.  
11 Q Okay. So that's 600. That leaves us  
12 with almost \$2,000 worth of bracelets. So you  
13 had -- in addition to that one you brought the  
14 receipt in on, you had three more bracelets;  
15 right?  
16 A Yeah.  
17 Q And were those all in the car that  
18 night?  
19 A Yes.  
20 Q And did you pay \$1900 for them?  
21 A Yes. I bought them off the street.  
22 Q You don't have receipts for any of  
23 them?

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1 A No, I don't.  
2 Q How do you know you paid \$1900 for  
3 them?  
4 A I know what I gave for them.  
5 Q You do?  
6 A Yeah.  
7 Q How do you know that?  
8 A I bought them.  
9 Q Did you buy them in cash?  
10 A Yeah.  
11 Q So you bought them on the street?  
12 A Yes.  
13 Q Where?  
14 A Montgomery.  
15 Q Where?  
16 A Down off of that street down there by  
17 the pawn shop. You know, the back way of  
18 Maxwell, the street the pawn shop is on.  
19 Q Okay.  
20 MR. BURGE: He's from Mobile.  
21 Q I don't know where Quick Pawn is, but  
22 it might be on that receipt you've got there.  
23 It might tell us where the Quick Pawn is.

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30 (Pages 117 to 120)



## MARTIN O. LONG

<p>1 A Yeah. It's on Bell Street. Yeah, Bell 2 Street. 3 Q Okay. Now, did you just walk up to 4 somebody on the street and say, hey, man, you 5 got any bracelets for sale? 6 A They came to me. 7 Q They walked up to you and said, hey, 8 man, you want to buy some bracelets? 9 A Yeah. 10 Q What were you doing down there anyway? 11 A Coming out of the pawn shop. 12 Q In February of '05? Is this February 13 of '05 we're talking about? 14 A Yeah. 15 Q So you bought all three of the 16 remaining bracelets in February of '05? 17 A Yes. 18 Q Coming out of the pawn shop? 19 A (Witness nods head.) 20 Q And that's a yes? 21 A Yes. 22 Q What were you doing in the pawn shop in 23 February of '05?</p> <p style="text-align: right;">Page 121</p>	<p>1 the money from. 2 A I got the money out of my pocket. 3 Q You got the money in your pocket? 4 A Yeah. 5 Q In your front pocket? 6 A Yes. 7 Q Had you withdrawn that money from the 8 bank? 9 A Yes. 10 Q How long before? 11 A I don't know. I mean, I can't -- I 12 can't -- I don't know exactly how long but I got 13 a receipt. 14 Q From the bank? 15 A Yes. 16 Q Would that be, again, Max Federal 17 Credit Union? 18 A Yes. 19 Q And is that, again, from your savings 20 account? 21 A Yes. 22 Q All right. Now, you've got the rings, 23 three rings. You said there were three rings in</p> <p style="text-align: right;">Page 123</p>
<p>1 A Well, a lot of times I just go by there 2 and just look at things and see if they've 3 got -- I love to buy guns. You know, I didn't 4 get no gun that day. 5 Q That's not the day that you bought the 6 .45, then? 7 A Huh-uh. 8 Q That's a no? 9 A Right. 10 Q And someone came up to you and said, 11 hey, man, you want to buy some bracelets and you 12 said sure and you bought the bracelets? 13 A Yeah. 14 Q Did he have any more for sale other 15 than three you bought? 16 A No. 17 Q You bought everything he had? 18 A Well, I bought what I wanted, yeah. 19 Q Where did you have the money that you 20 paid for them with? 21 A Where did I have it? 22 Q You told me earlier you don't carry 23 around much money, so I'm asking where you got</p> <p style="text-align: right;">Page 122</p>	<p>1 the car, the Corvette? 2 A Yes. 3 Q And you've got them down at \$1200; is 4 that right? 5 A Yes. 6 Q Is that 400 apiece, or are they 7 different prices totaling \$1200? 8 A Just different prices totaling \$1200. 9 Q When did you buy those? In February of 10 '05. 11 A Yes. 12 Q And I take it that both the bracelets 13 and the rings were bought after the time that 14 you got your money? 15 A Oh, yeah. I couldn't afford them any 16 other time. 17 Q And who did you buy the rings from? 18 A I mean, I don't know the guy's name. 19 Just a dude. 20 Q Dude on the street? 21 A Yeah. 22 Q Was it in that same location that you 23 bought the bracelets?</p> <p style="text-align: right;">Page 124</p>

31 (Pages 121 to 124)

## MARTIN O. LONG

<p>1 A No.</p> <p>2 Q Where did you buy the rings?</p> <p>3 A Down off of Fairview.</p> <p>4 Q Off of Fairview?</p> <p>5 A Fairview Avenue.</p> <p>6 Q Yes, sir. Where off of Fairview Avenue</p> <p>7 did you buy the rings?</p> <p>8 A Down by that McDonald's.</p> <p>9 Q And you were just walking along? Did</p> <p>10 you go up to somebody and say you got any rings</p> <p>11 for sale, or did someone come to you and say,</p> <p>12 hey, I've got some rings?</p> <p>13 A Yeah, someone come to me.</p> <p>14 Q Okay. And you bought them all three at</p> <p>15 once?</p> <p>16 A Yes.</p> <p>17 Q The next thing you've got is a DVD</p> <p>18 player, and that's one of those kinds, I think,</p> <p>19 that plugs into the car that you can play</p> <p>20 through your cigarette lighter and sends a</p> <p>21 signal to your radio?</p> <p>22 A Yes.</p> <p>23 Q And you've got down you bought it in</p> <p style="text-align: right;">Page 125</p>	<p>1 installments from your nephew?</p> <p>2 A Yeah.</p> <p>3 Q He said you could pay him a little bit</p> <p>4 along?</p> <p>5 A Yeah.</p> <p>6 Q How much were you paying him?</p> <p>7 A It went from like -- I think I paid him</p> <p>8 like 50 something dollars.</p> <p>9 Q You mean when you first took it -- you</p> <p>10 first got it you paid him \$50?</p> <p>11 A Yes.</p> <p>12 Q Did you ever pay him the remaining</p> <p>13 \$950?</p> <p>14 A Yeah.</p> <p>15 Q When did you pay him that?</p> <p>16 A After I got my settlement.</p> <p>17 Q Sir?</p> <p>18 A After I got my settlement.</p> <p>19 Q Okay. And what's your nephew's name?</p> <p>20 A Bailey.</p> <p>21 Q Bailey what?</p> <p>22 A Chancey.</p> <p>23 Q Is it spelled C-H-A-N-C-Y or</p> <p style="text-align: right;">Page 127</p>
<p>1 January of 2005. So you bought that before you</p> <p>2 got your settlement money?</p> <p>3 A Right.</p> <p>4 Q And you paid \$160 for it?</p> <p>5 A Right.</p> <p>6 Q Did you have a receipt for it?</p> <p>7 A I can't remember. I know it come out</p> <p>8 of Best Buy on Eastern Boulevard.</p> <p>9 Q Okay. And then you've got down here --</p> <p>10 you've got one watch that you say you bought in</p> <p>11 January of 2005 for a thousand dollars; right?</p> <p>12 A Right.</p> <p>13 Q And when you bought that watch, you</p> <p>14 didn't have any money --</p> <p>15 A Right.</p> <p>16 Q -- to speak of?</p> <p>17 A Right.</p> <p>18 Q So where did you get the money to buy</p> <p>19 the watch for a thousand dollars?</p> <p>20 A I just had it.</p> <p>21 Q Did you buy that watch over time?</p> <p>22 A Say again, sir.</p> <p>23 Q Didn't you buy that watch on</p> <p style="text-align: right;">Page 126</p>	<p>1 C-H-A-U-N-C-E-Y, or maybe neither one of them?</p> <p>2 A I think it's C-H-A-N-C-E-Y, I think.</p> <p>3 Q Okay. All right. So now what you're</p> <p>4 telling me is that you did have -- on this</p> <p>5 Exhibit 17 to your examination under oath, you</p> <p>6 did have the jacket in there, the auto handgun,</p> <p>7 you had \$5,000 cash, you had four bracelets, you</p> <p>8 had three rings, you had the DVD player, and you</p> <p>9 had the watch. You had three suits, but you say</p> <p>10 your suits, you didn't purchase them in February</p> <p>11 and they didn't cost \$600. You had two</p> <p>12 pantsuits, but, again, you didn't purchase them</p> <p>13 in February of 2005 and they didn't cost \$180.</p> <p>14 And instead of having four pairs of shoes, you</p> <p>15 had two pairs of shoes and you didn't buy them</p> <p>16 in February of 2005, and I guess they didn't</p> <p>17 cost \$1,100; right?</p> <p>18 A Right.</p> <p>19 Q And the reason you say that you put</p> <p>20 down the inflated figures -- you understand what</p> <p>21 inflated means. It means more than you really</p> <p>22 should have put down; right?</p> <p>23 A Right.</p> <p style="text-align: right;">Page 128</p>

## MARTIN O. LONG

<p>1 Q The reason you put that down is because</p> <p>2 you were mad at Todd Smith and mad at the</p> <p>3 insurance company?</p> <p>4 A Right.</p> <p>5 Q And you were mad at them because you</p> <p>6 had said are you saying I stole my car and he</p> <p>7 said yeah and you got mad at him?</p> <p>8 A Yeah. Accused me of something I didn't</p> <p>9 do. Why am I going to steal my own car for?</p> <p>10 Q So you decided as a result of that you</p> <p>11 would write down some things that were higher</p> <p>12 than what they really were?</p> <p>13 A Right.</p> <p>14 Q Let's go on. We got through that one.</p> <p>15 Is your trailer still insured with State Farm?</p> <p>16 A No. They dropped me on everything.</p> <p>17 Q Okay.</p> <p>18 A I ain't had no insurance since the</p> <p>19 first year the hurricane and stuff came through.</p> <p>20 Q Did you try to go anywhere else?</p> <p>21 A Yeah. Wouldn't nobody do it during</p> <p>22 that time. I had to wait until hurricane season</p> <p>23 was over.</p> <p style="text-align: right;">Page 129</p>	<p>1 Q How did you pay for it?</p> <p>2 A With a loan. I'm still paying on it.</p> <p>3 Q You've got a loan on it?</p> <p>4 A Yes.</p> <p>5 Q Where did you buy it? What company did</p> <p>6 you buy it from?</p> <p>7 A I bought it from a company in Florida.</p> <p>8 Q What's the name of it?</p> <p>9 A I don't know the -- I know I got it</p> <p>10 from Ft. Walton Beach.</p> <p>11 Q Did you go down there to pick it up?</p> <p>12 A Yes. I got it the same way I got the</p> <p>13 other one. I looked on the Internet.</p> <p>14 Q Okay. Is it a place that specializes</p> <p>15 in Corvettes?</p> <p>16 A No. This place sells all kind of</p> <p>17 vehicles.</p> <p>18 Q How did you find out about it? Oh, the</p> <p>19 Internet, you said?</p> <p>20 A Yes.</p> <p>21 Q So right now you've got two cars.</p> <p>22 You've still got the Mustang -- the Cobra -- and</p> <p>23 then you've this '01 Vette that you paid \$24,000</p> <p style="text-align: right;">Page 131</p>
<p>1 Q Have you got it now?</p> <p>2 A Yes.</p> <p>3 Q Who have you got it with?</p> <p>4 A I can't think of the guy I got it now.</p> <p>5 I know he out of Montgomery.</p> <p>6 Q Do you know what company?</p> <p>7 A No. I can't think of his name.</p> <p>8 Q Have you got your cars insured?</p> <p>9 A Yes.</p> <p>10 Q You've just got one car right now? The</p> <p>11 Mustang Cobra.</p> <p>12 A I've got two cars.</p> <p>13 Q What's the other one?</p> <p>14 A I've got an '01 Vette.</p> <p>15 Q When did you buy the '01 Vette?</p> <p>16 A I bought it last year. I'm trying to</p> <p>17 think when now. I think maybe -- October</p> <p>18 maybe. Something like that. I've got the bill</p> <p>19 of sale and everything in the car.</p> <p>20 Q October of '06?</p> <p>21 A Yes. I mean, somewhere around there.</p> <p>22 Q Yeah. Okay. How much did it cost?</p> <p>23 A 24,000.</p> <p style="text-align: right;">Page 130</p>	<p>1 for in October of 2006?</p> <p>2 A Right.</p> <p>3 Q How much did you pay down on the Vette?</p> <p>4 A I didn't pay nothing down.</p> <p>5 Q Nothing down?</p> <p>6 A No.</p> <p>7 Q What are your payments?</p> <p>8 A 523.</p> <p>9 Q A month?</p> <p>10 A Yeah.</p> <p>11 Q What do you pay on your mortgage</p> <p>12 payment?</p> <p>13 A 292.</p> <p>14 Q 292. And your total income at this</p> <p>15 time since you've done the settlement is just</p> <p>16 what you're getting from the government?</p> <p>17 A Say that again.</p> <p>18 Q Your settlement -- when you made your</p> <p>19 settlement, you don't get any more from the</p> <p>20 railroad retirement, do you?</p> <p>21 A I get a check a month from the</p> <p>22 railroad.</p> <p>23 Q Oh, you do?</p> <p style="text-align: right;">Page 132</p>

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1 A Yes.  
 2 Q So you get that in addition to what you  
 3 get from the VA?  
 4 A Yes.  
 5 Q Is it the same amount that you get from  
 6 the railroad like that? What is it? A thousand  
 7 dollars? You told me what it was.  
 8 A No. I get 1400 from the railroad.  
 9 Q Okay. Yeah, you said 14 or 1500 from  
 10 the railroad.  
 11 A No. That was from the VA back then.  
 12 Q 1500 from the VA back then. How much  
 13 do you get from the VA now?  
 14 A 29.  
 15 Q It's gone up that much?  
 16 A (Witness nods head.)  
 17 Q Is that --  
 18 A Yes.  
 19 Q Why has it gone up?  
 20 A Because I'm a hundred percent now.  
 21 Q A hundred percent disabled?  
 22 A Right.  
 23 Q Do you get any money from Social

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1 Security?  
 2 A Right. That's what the railroad gives  
 3 me is Social Security.  
 4  
 5 (Whereupon, Defendant's Exhibit  
 6 Numbers 15 and 16 were marked for  
 7 identification and copies of same are  
 8 attached hereto.)  
 9  
 10 Q Okay. I'll show you what's been marked  
 11 as Defendant's 15 and 16 to your deposition.  
 12 Those are written to your lawyer, not to you.  
 13 A Okay.  
 14 Q But they are letters that deny the  
 15 claims on the homeowners policy and on the auto  
 16 policy. That's what those are. Have you ever  
 17 seen copies of those or seen those before?  
 18 A Huh-uh.  
 19 Q All right. You were informed by him or  
 20 you knew somehow that they had denied the  
 21 claims; right?  
 22 A Uh-huh.  
 23 Q Is that a yes?

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1 A Yes.  
 2 Q How did you find that out?  
 3 A That they denied the claims?  
 4 Q Yes, sir.  
 5 A Because I asked him. And after he told  
 6 me that, that's when I called Tucker.  
 7 Q Okay. That's when you asked Mr. Smith;  
 8 right?  
 9 A Right.  
 10 Q Okay. Help me on this -- these calls  
 11 that first day to the police department, did you  
 12 tell them any time that day what you thought you  
 13 had lost, or did you just simply say I had some  
 14 personal items in there and then they said to  
 15 report back? How did that work?  
 16 A He told me to call him back.  
 17 Q You said my car is gone and I had some  
 18 things in it?  
 19 A Right.  
 20 Q And they said call back when you know  
 21 what you lost?  
 22 A Yes.  
 23 Q Okay. Did you ever give them -- you

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1 know, when you called them, did you ever tell  
 2 them the things that you were missing? There's  
 3 a difference between saying I lost some stuff  
 4 or I lost a handgun, \$5,000, a specific list.  
 5 A I don't know. I can't remember whether  
 6 I called them and told them that or not.  
 7 Q Okay. So you don't recall when you  
 8 told them -- you don't recall when you called  
 9 them the first time or the second time whether  
 10 you gave them a specific list or whether you  
 11 just told them that there was stuff in the car?  
 12 A Right.  
 13 Q But you do know -- whether you told  
 14 them a specific list or whether you told them it  
 15 was just personal property in the car, you do  
 16 know that they called -- that they told you to  
 17 call back when you were able to tell them  
 18 exactly what it was?  
 19 A Right. I think when I called them to  
 20 tell them what I had I think I was at home.  
 21 Q With the specific things?  
 22 A Yeah.  
 23 Q Okay. Now, did either Sandy or Ricky

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<p>1 Ware at the hotel, at the time that your Vette 2 was missing, when you discovered it was 3 missing -- did they ever tell you during that 4 time to make sure that you put down on your loss 5 report that you had a suitcase missing from the 6 car? 7 A No. 8 Q You don't remember anything like that? 9 A No. 10 Q Okay. And I'm not talking about just 11 the time right when it was -- when you noticed 12 it was missing, but any time did they ever tell 13 you that? 14 A No. 15 Q Why did Ms. Ware purchase a cell phone 16 for you? 17 A Say again, sir. 18 Q Why did Ms. Ware purchase a cell phone 19 for you? 20 A Because at that time, I couldn't get 21 one in my name. 22 Q Why not? 23 A Because I had got some phones through</p> <p style="text-align: right;">Page 137</p>	<p>1 A Cash. 2 Q Okay. Do you remember what you took 3 inside with you on the night that you got to 4 Lithonia, Georgia on February the 19th? 5 A What I took in the motel? 6 Q Yeah. It sounds like you left 7 everything in the car. I'm just asking what you 8 took inside with you. 9 A I know I took a pair of shoes up there, 10 and I took -- took an outfit up there. 11 Q Something to wear? 12 A Yeah. For the next day. But I left -- 13 I mean, I just -- I guess I was just... 14 Q Do you remember who you purchased those 15 bracelets or the rings from? 16 A No. 17 Q I mean, I know it wasn't anybody -- was 18 it anybody you had ever seen before? 19 A No. 20 Q Anybody you've ever seen since? 21 A No. 22 Q If he walked up today, would you 23 recognize them?</p> <p style="text-align: right;">Page 139</p>
<p>1 Verizon or Nextel. Nextel, I think. You know, 2 I had -- I was able to get like three different 3 people on the line, and I did that. And one of 4 them reneged, and I never did pay the balance 5 off. 6 Q So your credit for getting phones was 7 not good; is that right? 8 A Right. 9 Q And so that's why Ms. Ware purchased 10 one for you? 11 A Right. 12 Q Were you reimbursing her for that? 13 A Yeah. I was paying my own phone bill. 14 That's what you mean? Was I paying my phone 15 bill? 16 Q Yes, sir. 17 A Yes. 18 Q Did you pay her and then she paid the 19 cell phone company, or did you pay it straight 20 to the cell phone company? 21 A I paid her. 22 Q Okay. Did you pay her in cash or did 23 you pay her by check?</p> <p style="text-align: right;">Page 138</p>	<p>1 A No. 2 Q Either one of them? 3 A No. 4 Q You've seen -- you saw your car -- your 5 car was returned to you after the incident on 6 February 19th; right? 7 A No, my car wasn't returned. I had to 8 go get my car. 9 Q I said you've seen it since then. 10 A Oh, yeah. 11 Q That's what I said. 12 A I thought you said returned to me. 13 Q No, sir. You've seen it since the -- 14 MR. BURGE: The Record will speak for 15 itself on that. 16 Q Okay. Well, if I didn't, I certainly 17 apologize to you. What I'm asking you, have you 18 seen it since then? 19 A Yes. 20 Q And how did you come to see it? 21 A I went to Georgia. 22 Q Okay. You went and picked it up? 23 A Yes.</p> <p style="text-align: right;">Page 140</p>

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1 Q Where was it?

2 A It was in -- I can't remember the name  
3 of the place, but it was like a big holding area  
4 for stolen cars and wrecked cars. I think some  
5 people come through and get it and, you know,  
6 sell cars at auctions or whatever. Stuff like  
7 that.

8 Q How did you get over to Atlanta?

9 A I rented a U-Haul.

10 Q Okay. Did you leave the U-Haul in  
11 Atlanta?

12 A No. I rented...

13 Q How did you -- the question I'm trying  
14 to get is, how did you get the Corvette back to  
15 Montgomery.

16 A With a trailer.

17 Q You put it on a trailer?

18 A Yeah. I rented a truck. You know, the  
19 trailer comes with the truck.

20 Q Like a low boy, flatbed?

21 A Yeah. With two wheels on the back of  
22 the trailer. You hook it up to the back of the  
23 U-Haul truck.

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1 Q And then push the car up on that?

2 A Yes.

3 Q Was the car running?

4 A Yeah.

5 Q Were you able to drive it up on the  
6 ramp to get it on the trailer?

7 A Right. I didn't have no brakes,  
8 though.

9 Q And so then you took it back to  
10 Montgomery --

11 A Millbrook.

12 Q -- in a U-Haul? I'm sorry. You're  
13 right. To Millbrook in a U-Haul?

14 A Yes.

15 Q And then after that, did you sell it to  
16 someone?

17 A Yes.

18 Q Who did you sell it to?

19 A A guy named David.

20 Q How much you did you get for it?

21 A Six.

22 Q And you got a bill of sale from that;  
23 right?

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1 A Yes.

2 Q So that's 6,000, and the car had cost  
3 you \$25,000 new; right?

4 A Right.

5 Q What did it look like?

6 A Well, it was -- like I said, the paint  
7 wasn't messed up, the motor was still okay, the  
8 transmission was still okay. It was just the  
9 rims and tires was gone, brakes was gone, the  
10 brake calipers was gone, seats was gone, the top  
11 was out, and the inside had some dings to it.  
12 The gear shifter thing, that was like took off.  
13 The console part in the middle of the seat was  
14 gone, and part of the vents was gone. But the  
15 biggest thing, it had got rained in for like two  
16 or three months, and it just -- you know, all  
17 that water getting in the system, it was just --  
18 that was the worst part. That was what made it  
19 a total loss. All that rain had got all in the  
20 wiring and all that stuff.

21 MR. BURGE: Did you mention the tires  
22 and rims?

23 THE WITNESS: Yeah, I said tires and

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1 rims.

2 MR. NEWMAN: The Record will show that,  
3 I think.

4 Q How did the rain get in it? Was it  
5 because the windows were broken or the top was  
6 off?

7 A Both. Mainly because of the top.

8 Q The top was a removable, hard-top-type  
9 car?

10 A Right.

11 Q Was the hard top on it when it was  
12 sitting in the lot at the Country Inn?

13 A Yes. The way I left it, yes.

14 Q And when you got to Atlanta to pick it  
15 up, was the hard top on it then?

16 A No.

17 Q Were you able to find the hard top?

18 A No.

19 Q So it was not with the car, then --

20 A Right.

21 Q -- when you went to get it?

22 A Right.

23 Q Were you able to tell whether the

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36 (Pages 141 to 144)

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<p>1 windows were broken or not?</p> <p>2 A Yeah. The passenger side window was</p> <p>3 broken.</p> <p>4 Q Passenger side window was broken.</p> <p>5 Completely broken out?</p> <p>6 A Yes.</p> <p>7 Q How about the windshield?</p> <p>8 A The front? The windshield was there.</p> <p>9 Q And did it have a back windshield?</p> <p>10 A Yes.</p> <p>11 Q Was it still there?</p> <p>12 A Right.</p> <p>13 Q And how about the passenger --</p> <p>14 A You mean the driver side?</p> <p>15 Q The driver side window.</p> <p>16 A Yeah, it was still there.</p> <p>17 Q Does it have any -- in that little</p> <p>18 hatchback area, are there any side windows back</p> <p>19 in the back on it?</p> <p>20 A No.</p> <p>21 Q Do you have any idea who took the car?</p> <p>22 A No.</p> <p>23 Q Do you know anyone else who had --</p> <p style="text-align: right;">Page 145</p>	<p>1 Q Okay. You said your family. I was</p> <p>2 wondering --</p> <p>3 A No, I wasn't talking about her. I was</p> <p>4 talking about my brother.</p> <p>5 Q Your brother?</p> <p>6 A (Witness nods head.)</p> <p>7 Q What's your brother's name?</p> <p>8 A Wayne.</p> <p>9 Q Now, that's not the one who's got the</p> <p>10 daughter that you called, the niece that you</p> <p>11 called?</p> <p>12 A No. That's my sister.</p> <p>13 Q Your oldest sister. So you've got a</p> <p>14 brother named Wayne. Does he live here in</p> <p>15 Montgomery?</p> <p>16 A Millbrook.</p> <p>17 Q What's his last name?</p> <p>18 A Long.</p> <p>19 Q Same name as yours?</p> <p>20 A Yes.</p> <p>21 Q Y'all got the same mother and father?</p> <p>22 A Right.</p> <p>23 MR. NEWMAN: Tucker, this is a real</p> <p style="text-align: right;">Page 147</p>
<p>1 excuse me. Let me rephrase that. I'm going to</p> <p>2 strike the introductory part of that last</p> <p>3 question. This is my question. Do you know</p> <p>4 anyone who had anything to do with having --</p> <p>5 with taking that car?</p> <p>6 A No.</p> <p>7 Q Do you know of anyone who had any</p> <p>8 motive or desire to steal that car?</p> <p>9 A No.</p> <p>10 Q Have you got any enemies that would do</p> <p>11 that to you just to be mean to you?</p> <p>12 A I mean, probably everybody's got</p> <p>13 enemies.</p> <p>14 Q I mean, who knew that you were going to</p> <p>15 Atlanta that day?</p> <p>16 A Oh, nobody except my family. That's</p> <p>17 about it.</p> <p>18 Q Do you know anybody who would take your</p> <p>19 car just to be mean to you?</p> <p>20 A No.</p> <p>21 Q Did your wife know you were going to</p> <p>22 Lithonia, to Atlanta?</p> <p>23 A I don't think she did.</p> <p style="text-align: right;">Page 146</p>	<p>1 good stopping point. I can clean some things up</p> <p>2 and get through these exhibits and we'll be</p> <p>3 fine.</p> <p>4</p> <p>5 (Whereupon, a lunch recess was had in</p> <p>6 the proceeding.)</p> <p>7</p> <p>8 BY MR. NEWMAN:</p> <p>9 Q Back on the Record. Mr. Long, I want</p> <p>10 to show you -- these are written questions that</p> <p>11 were sent to you and you answered them probably</p> <p>12 with the assistance of your lawyer and signed</p> <p>13 them. I want to ask you about number 5 in which</p> <p>14 you talk about -- you write about someone named</p> <p>15 General Long and someone named Walter Crosby.</p> <p>16 A Brother and nephew.</p> <p>17 Q General Long would be who?</p> <p>18 A My brother.</p> <p>19 Q That's the brother that knew that you</p> <p>20 were going over to Atlanta that day?</p> <p>21 A No.</p> <p>22 Q Another brother?</p> <p>23 A Right.</p> <p style="text-align: right;">Page 148</p>

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<p>1 Q How many of y'all are there?</p> <p>2 A 12.</p> <p>3 Q 12 of y'all. Were y'all all born in</p> <p>4 Millbrook?</p> <p>5 A Yes.</p> <p>6 Q So General -- but General Long is your</p> <p>7 brother. Is General just his name, or was he</p> <p>8 actually a general like in the Army?</p> <p>9 A No. General is his name.</p> <p>10 Q General is his name. Okay. Walter</p> <p>11 Crosby, who is Walter Crosby?</p> <p>12 A That's my nephew.</p> <p>13 Q Is he General --</p> <p>14 A No. That's my sister's son.</p> <p>15 Q Sister's son. Okay. All right. And</p> <p>16 then also attached to your interrogatories I've</p> <p>17 got a little yellow sticker on it -- we can take</p> <p>18 that off -- but it says page 1 of 1, U-Haul</p> <p>19 equipment contract. And is that just something</p> <p>20 that was --</p> <p>21 A I brought the other paper.</p> <p>22 THE WITNESS: Didn't I give you that</p> <p>23 this morning?</p> <p style="text-align: right;">Page 149</p>	<p>1 (Whereupon, Defendant's Exhibit</p> <p>2 Number 17 was marked for identification</p> <p>3 and copy of same is attached hereto.)</p> <p>4</p> <p>5 Q This is Defendant's Exhibit 1. These</p> <p>6 were -- your lawyer and I at the first of the</p> <p>7 case exchanged some paperwork related to the</p> <p>8 case. And I marked the whole package. I'm not</p> <p>9 going to ask you about the whole package. I'm</p> <p>10 going to ask you just about a couple of things</p> <p>11 here. All right. This very last part of your</p> <p>12 disclosures appears to be an insurance policy on</p> <p>13 your automobile. Do you have -- do you know</p> <p>14 where that came from? I mean, your lawyer gave</p> <p>15 it to me. I'm just asking if you knew where it</p> <p>16 came.</p> <p>17 A My insurance policy on my car?</p> <p>18 Q Yes, sir.</p> <p>19 A From State Farm?</p> <p>20 Q Yes, sir.</p> <p>21 A I'm saying that's what you're asking</p> <p>22 me?</p> <p>23 Q Do you know how that got into your</p> <p style="text-align: right;">Page 151</p>
<p>1 A I thought I had turned it into him.</p> <p>2 But it had the price.</p> <p>3 Q But that's just part of the paperwork</p> <p>4 that related to your renting the U-Haul to go</p> <p>5 over to Atlanta to pick up the Corvette; right?</p> <p>6 A Yes, sir.</p> <p>7 Q Okay. Now, take a look now at --</p> <p>8 MR. BURGE: I think I gave it back to</p> <p>9 you. No. Here it is. Is that what you're</p> <p>10 talking about?</p> <p>11 THE WITNESS: Yeah.</p> <p>12 MR. NEWMAN: You want to mark it or</p> <p>13 what?</p> <p>14 MR. BURGE: If you want to.</p> <p>15 A That's the price on how much it was.</p> <p>16 Q Okay. We're going to mark this as</p> <p>17 Defendant's Exhibit 17. And you brought this</p> <p>18 with you today. And this shows the cost of the</p> <p>19 U-Haul with the trailer that you took over to</p> <p>20 Atlanta to get the Corvette; right?</p> <p>21 A Right.</p> <p>22 MR. NEWMAN: That's 17.</p> <p>23</p> <p style="text-align: right;">Page 150</p>	<p>1 lawyer's possession is what I'm asking you.</p> <p>2 A Let me see what it is.</p> <p>3 Q Yeah. I'm just showing you what was</p> <p>4 attached to the complaint, and I'm asking you if</p> <p>5 you -- I mean, to the disclosures, and I'm</p> <p>6 asking if you know how he got ahold of that.</p> <p>7 A I don't know.</p> <p>8 Q And that's fine. I want to show you</p> <p>9 also in part of the disclosures is a document</p> <p>10 that's signed by Davis Carrera. Is the document</p> <p>11 that shows the sale -- the bill of sale for the</p> <p>12 Corvette that you brought back from Atlanta?</p> <p>13 A Yes.</p> <p>14 Q Okay. Enclosed also in this is a fax</p> <p>15 sheet that, as far as I can tell, didn't have</p> <p>16 anything attached to it. It may have. But it</p> <p>17 says it's from the De Kalb County Police</p> <p>18 Department Auto Theft Unit. At the bottom of it</p> <p>19 says Auto Theft, Metro Atlanta's favorite group</p> <p>20 participation sport. Do you know where that</p> <p>21 document came from?</p> <p>22 A No.</p> <p>23 Q All right. Then I want to show you the</p> <p style="text-align: right;">Page 152</p>



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<p>1 document that's right underneath that in the</p> <p>2 disclosures. All the disclosures we're talking</p> <p>3 about are in Exhibit 1 by the way. And right</p> <p>4 below that document we just talked about is a</p> <p>5 title, State of Alabama Department of Revenue</p> <p>6 Motor Vehicle Title, which has then got void</p> <p>7 stamped all over it. Is this the title to -- do</p> <p>8 you know what this is the title to?</p> <p>9 A Well, it's got Chevy Corvette on here.</p> <p>10 Q Was that the 2000 -- that's says 2000</p> <p>11 Chevrolet Corvette.</p> <p>12 A I don't know why it's void.</p> <p>13 Q Well, they may have stamped void on it</p> <p>14 because the car was totaled. It doesn't</p> <p>15 matter. But as far as you know, that's the same</p> <p>16 car we're talking about?</p> <p>17 A Okay. Yes.</p> <p>18 Q Okay. Just sometimes when there's a</p> <p>19 certain amount of damage done to a vehicle</p> <p>20 you've got to get a new title issued.</p> <p>21 Okay. I also want you to look at</p> <p>22 your -- that policy in the disclosures. This</p> <p>23 will be marked as Defendant's Exhibit 18.</p> <p style="text-align: right;">Page 153</p>	<p>1 A Chase.</p> <p>2 Q Is that who you write your check to?</p> <p>3 A It was then. Yeah, it was Chase.</p> <p>4 Q Now it's changed?</p> <p>5 A Yeah. It's Vanderbilt now.</p> <p>6 Q Okay. And this indicates it was</p> <p>7 through the Mike Devers Insurance Company. And</p> <p>8 when I say this, I'm talking about page 2 of</p> <p>9 Exhibit 18. And that's who your agent was;</p> <p>10 correct?</p> <p>11 A Correct.</p> <p>12 Q Do you know who LaToya is?</p> <p>13 A LaToya? Huh-uh.</p> <p>14 Q LaToya?</p> <p>15 A No.</p> <p>16 Q Was there anybody else with y'all going</p> <p>17 to Atlanta other than Felicia Flowers, Valerie,</p> <p>18 Ricky, Sandy, and you? Was there another girl?</p> <p>19 A No.</p> <p>20 Q Sure?</p> <p>21 A Yes.</p> <p>22 Q Okay. Do you know any LaToyas?</p> <p>23 A No.</p> <p style="text-align: right;">Page 155</p>
<p>1</p> <p>2 (Whereupon, Defendant's Exhibit</p> <p>3 Number 18 was marked for identification</p> <p>4 and copy of same is attached hereto.)</p> <p>5</p> <p>6 Q And I'll tell you ahead of time this</p> <p>7 appears to me to be the insurance policy on your</p> <p>8 trailer, on your manufactured home. I'll just</p> <p>9 ask you have you ever seen it before is my</p> <p>10 question.</p> <p>11 A (Witness reviews document.) Yeah.</p> <p>12 Q Do you know when you first saw it?</p> <p>13 A I guess at State Farm.</p> <p>14 Q I don't know. I'm asking you. I</p> <p>15 pulled this stuff together from a lot of</p> <p>16 different places, so I'm just asking you if</p> <p>17 you've ever seen that before. I mean, you've</p> <p>18 seen it before but you don't recall where you</p> <p>19 saw it; is that right?</p> <p>20 A Right.</p> <p>21 Q Fair enough. This says on the policy</p> <p>22 that your mortgagee was Chase Home Finance,</p> <p>23 LLC. Was that the mortgagee?</p> <p style="text-align: right;">Page 154</p>	<p>1 Q Other than LaToya Jackson that's a</p> <p>2 singer? Other than that, you don't know any</p> <p>3 LaToyas?</p> <p>4 A No, I don't.</p> <p>5 Q And in your complaint, you talk about</p> <p>6 the fact that the denial of coverage and the</p> <p>7 actions of State Farm have caused you emotional</p> <p>8 distress. Have you been to see any doctors</p> <p>9 about emotional distress?</p> <p>10 A I mean, that's part of my claim. I</p> <p>11 mean, you know, I went through stress class at</p> <p>12 the VA. Well, anger management class at the</p> <p>13 Department of VA.</p> <p>14 Q When did you do that?</p> <p>15 A I think in -- I think early part of</p> <p>16 last year or the end part of '05.</p> <p>17 Q All right. Now, you had -- one of the</p> <p>18 reasons for your discharge was emotional in</p> <p>19 nature, was it not, from the Army?</p> <p>20 A What you mean emotional in nature?</p> <p>21 Q I mean, it wasn't totally from the</p> <p>22 standpoint of your leg that you were</p> <p>23 discharged. There were also depression problems</p> <p style="text-align: right;">Page 156</p>

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<p>1 associated with your discharge; correct?</p> <p>2 A No.</p> <p>3 Q That's not correct?</p> <p>4 A No, that's not correct.</p> <p>5 Q Have you ever told anybody that?</p> <p>6 A The only reason why the Army put me out</p> <p>7 was because of my leg.</p> <p>8 Q There was never any assessment that</p> <p>9 found that one of the reasons for your discharge</p> <p>10 was emotional in nature?</p> <p>11 A No, not my discharge.</p> <p>12 Q Okay. Had you ever had any treatment</p> <p>13 for emotional injury or emotional problems</p> <p>14 before 2005?</p> <p>15 A Yeah.</p> <p>16 Q You told me you're on some pills for</p> <p>17 depression. You told me that this morning?</p> <p>18 A Yes.</p> <p>19 Q Who prescribes those for you?</p> <p>20 A Psychiatrist.</p> <p>21 Q And how long -- what's his name?</p> <p>22 A The last one I saw was Tobino. It was</p> <p>23 a female named Tobino.</p> <p style="text-align: right;">Page 157</p>	<p>1 Q Where was she located?</p> <p>2 A I know the appointment was off of -- I</p> <p>3 can't think where the appointment was. I know</p> <p>4 it was off of Perry Hill Road, though.</p> <p>5 Q So the railroad retirement doctors were</p> <p>6 off of Perry Hill Road as well?</p> <p>7 A (Witness nods head.)</p> <p>8 Q Just like the VA?</p> <p>9 A Just the opposite side. Once you get</p> <p>10 off Perry Hill Road, you go to the left, but</p> <p>11 whenever I seen the railroad psychiatrist I went</p> <p>12 to the right.</p> <p>13 Q Okay. And when did you see -- you say</p> <p>14 the last one you can remember seeing at the VA</p> <p>15 was a psychiatrist named Tobino?</p> <p>16 A Yes.</p> <p>17 Q T-O-B-I-N-O?</p> <p>18 A I think so.</p> <p>19 Q And how long ago was that?</p> <p>20 A That was maybe last August, I think.</p> <p>21 Somewhere around there.</p> <p>22 Q Okay. Do you remember who you saw</p> <p>23 before Tobino?</p> <p style="text-align: right;">Page 159</p>
<p>1 Q Here in Montgomery?</p> <p>2 A At the VA, yes.</p> <p>3 Q At the VA in Montgomery?</p> <p>4 A Yes.</p> <p>5 Q Do you go to Maxwell for that? Is that</p> <p>6 where you go for that?</p> <p>7 A No. I go to the regional office.</p> <p>8 Q Where is it?</p> <p>9 A Off Perry Hill Road.</p> <p>10 Q Okay. Is it a pretty big facility?</p> <p>11 A It's okay.</p> <p>12 Q Okay. Are all the psychiatrists that</p> <p>13 you've seen -- have all of them been through the</p> <p>14 VA?</p> <p>15 A Yes.</p> <p>16 Q Have you seen any private ones, ones</p> <p>17 that are not VA employed?</p> <p>18 A Well, I saw one with the railroad.</p> <p>19 Q With the railroad?</p> <p>20 A Yes.</p> <p>21 Q Do you remember his or her name?</p> <p>22 A No. It was a female, though, but I</p> <p>23 don't remember her name.</p> <p style="text-align: right;">Page 158</p>	<p>1 A I saw Chille, Dr. Chille, C-H-I-L-L-E.</p> <p>2 Q Okay. Was that also at the VA here in</p> <p>3 Montgomery?</p> <p>4 A Yes.</p> <p>5 Q How long ago was that you saw</p> <p>6 Dr. Chille?</p> <p>7 A About a year. Because I saw him before</p> <p>8 I saw her. Then they moved him to Tuskegee.</p> <p>9 Q Okay. Who initially prescribed -- what</p> <p>10 kind of antidepressants do you take?</p> <p>11 A Let's see. I used to take -- I know</p> <p>12 I've taken one. Then I stopped taking them.</p> <p>13 Then I started Zoloft. Then I stopped taking</p> <p>14 them, and I'm on some others now.</p> <p>15 Q Okay. Where do you get your</p> <p>16 prescriptions filled?</p> <p>17 A VA.</p> <p>18 Q Okay. The one on Perry Hill Road?</p> <p>19 A Yes.</p> <p>20 Q Okay. Were you being treated -- when</p> <p>21 you saw the railroad retirement psychiatrist,</p> <p>22 was that before or after your injury, the</p> <p>23 shoulder?</p> <p style="text-align: right;">Page 160</p>

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1 A After.

2 Q After. Did you see any of the VA  
3 psychiatrists before you injured yourself on the  
4 railroad?

5 A Yes.

6 Q Okay. Do you remember was that  
7 Dr. Chille, or was it somebody even before  
8 Dr. Chille?

9 A It was Dr. Chille. Well, no. It  
10 was -- I can't think of the doctor's name. All  
11 of it is in my records, though.

12 Q I know it is, and I'm just trying to  
13 make sure I can cover it so I can get it from --  
14 you know, see if I can get it. But the other  
15 thing I was going to ask you, have you been  
16 under continuous treatment by psychiatrists or  
17 psychologists since you were discharged from the  
18 Army?

19 A I mean, I didn't -- when I got  
20 discharged from the Army, I didn't get up under  
21 a psychiatrist's care.

22 Q How long after you were discharged did  
23 you see a psychiatrist?

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1 myself trying to get myself together once the  
2 railroad come through for me. Then this  
3 happened. And it was just -- it was like a  
4 shock because, you know, I didn't think that it  
5 would take this long and I didn't think they  
6 just straight thought that I stole my own car.  
7 I just couldn't grasp that, how they could think  
8 that.

9 Q And so I understand, because of that,  
10 you've got these -- feel like that's caused  
11 emotional distress, and I'm trying to ask you  
12 how that manifested itself. I mean, did your  
13 hair fall out? You understand what I'm saying  
14 now? Did it turn gray like mine? I can tell it  
15 didn't turn gray. Any kind of physical  
16 manifestations of that --

17 A I mean, I just --

18 Q -- or did it just bother you?

19 A Well, I mean, it did more than bother  
20 me. I -- you know, I started just being  
21 irritable and, you know, just not really wanting  
22 to be around nobody.

23 Q Made you irritable and not wanting to

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1 A I think in...

2 Q You were discharged in '97, you told  
3 me.

4 A Right. I think in '02 or '03.

5 Q So it was four or five years later,  
6 then; is that right?

7 A Right.

8 Q Other than the doctors that you've seen  
9 at the VA, have you seen anyone else for  
10 psychological or psychiatric problems?

11 A No.

12 Q And the one at the railroad retirement  
13 board?

14 A No.

15 Q Anybody else?

16 A No.

17 Q Other than the, you know -- can you  
18 tell me any way that this emotional distress  
19 that you suffered from State Farm how that's  
20 manifested itself? What it's done to you?

21 A Well, I mean, it just -- it took me  
22 through a lot because all I had -- I had been  
23 through a lot already and then I had just called

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1 be around anybody?

2 A I just stayed mad and frustrated all  
3 the time.

4 Q Anything else?

5 A No. Because, I mean, I was already  
6 going through things anyway.

7 Q I mean, you already were -- had some  
8 things that would make you irritable and  
9 frustrated; right?

10 A Right.

11 Q I mean, you had problems with your  
12 injury; right?

13 A Right.

14 Q And you were having problems with your  
15 marriage; right?

16 A Right.

17 Q And you were having money problems;  
18 right?

19 A Before then, though. I'm talking about  
20 all that was before then. But after -- you  
21 know, like I said, I was pretty much caught up  
22 after the lawsuit, you know, once I...

23 Q You mean after the lawsuit against

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41 (Pages 161 to 164)

## MARTIN O. LONG

1 the --

2 A Yeah. I had paid off the bills and  
3 pretty much was trying to move ahead and, you  
4 know, then this happened and, you know, it just  
5 threw me for a loop because I could have --  
6 like I said, I wasn't hurting for no money  
7 because if I had wanted to sell the car or  
8 something, you know, I still would have got the  
9 car. I just wouldn't have paid off as much  
10 stuff as I paid for my wife. I was going to get  
11 the car regardless. You know, after it was  
12 took, that was just -- it was like -- I guess it  
13 was like a low blow, I guess.

14 Q I understand all that. I'm just trying  
15 to find out other than making you irritable and  
16 mad if there was any other things that were  
17 caused by your emotional distress as a result of  
18 what you said State Farm did.

19 A I mean, I was already having panic  
20 attacks, but it was -- I guess it didn't help  
21 them none.

22 Q So you already had some panic attacks  
23 before then; is that right?

Page 165

1 A Right.

2 Q And is that what the anti-depressants  
3 were treating?

4 A Yeah.

5 Q Are you still having the panic attacks,  
6 or are they better?

7 A They got better.

8 Q Are you still seeing a psychiatrist?

9 A Well, I haven't saw one in probably  
10 about four months.

11 Q Okay. Have you got any visits  
12 scheduled to go back?

13 A Yes.

14 Q When?

15 A I've just got a call to make because  
16 now they do it -- they'll see you like six  
17 months out, but if you run out of medication  
18 before then, then you can call and they'll see  
19 you because they ain't going to give you more  
20 medication without seeing you.

21 Q I see. So have you got any plans to go  
22 back?

23 A Yeah.

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1 Q Sir?

2 A Yes.

3 Q When? I mean, have you made an  
4 appointment is my question.

5 A No, I haven't made an appointment.

6 Q You haven't made an appointment, but  
7 you plan to make an appointment?

8 A Yes.

9 Q Okay. What I want you to do on this  
10 diagram that you drew for us, which is Exhibit  
11 14 -- let me make sure I understand it. The  
12 camera that you've written -- I mean, that  
13 you've drawn here, you've drawn a little kind of  
14 square and you've written camera by it. And  
15 that was under the -- under the overhang where  
16 the cars would pull up right in front of the  
17 hotel; is that right?

18 A Right. If I'm not mistaken, yeah.

19 Q And it was on the side away from where  
20 your car was?

21 A Right. But it was pointed toward -- it  
22 was pointed toward this way (indicating).

23 Q But it was pointed towards your car?

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1 A Right.

2 Q And that's what you say -- about 20, 30  
3 yards, you say?

4 A It might not be that far. I just say  
5 20 or 30 yards. It wasn't that far.

6 Q You weren't able to climb up and look  
7 through the lens of the camera and see where it  
8 was pointed, were you?

9 A No. But you can look at a camera and  
10 tell which way it's pointed, now.

11 Q Was it a wide angle lens or was it  
12 a narrow lens?

13 A It was narrow.

14 Q Narrow lens. So how wide -- how much  
15 territory would that camera cover at 30 yards?

16 MR. BURGE: If you know.

17 A I don't know.

18 Q So you don't know whether your car was  
19 in the field of vision of the camera or not, do  
20 you?

21 A Yes. I know it was in the point of  
22 aim.

23 Q Okay. So you think it was aimed right

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42 (Pages 165 to 168)



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1 at it?

2 A I know it was aimed. I could see it.

3 Q Go ahead.

4 A I'm saying I could see the way the  
5 camera was pointing.

6 Q Were there any other cars where you  
7 were parked?

8 A Yes.

9 Q On either side of you?

10 A Yeah.

11 Q Okay. Any other banks you've banked at  
12 other than Max Federal Credit Union?

13 A I mean, I've got an account at -- are  
14 you talking about like now?

15 Q Yes, sir.

16 A Yeah. I've got an account at FedMont  
17 Federal Credit Union and I've a -- I had an  
18 account at AmSouth.

19 Q As of the time that you -- February 19,  
20 2005, did you have accounts anywhere but at --

21 A Max.

22 Q -- Max?

23 A No.

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1 A Right. Well, she called and told Val,  
2 then Val told me.

3 Q And you said that the way that you  
4 found out was because she called Val on the  
5 telephone and then Val told you?

6 A Right. Because she thought we was  
7 gone.

8 Q Okay. What do you mean she thought you  
9 were gone?

10 A She thought we had went to the store or  
11 something because she didn't see the car.  
12 That's why she called and asked where we were.

13 Q And you never did any shopping in  
14 Georgia on this trip; correct?

15 A Right.

16 Q Were any of the things that were in the  
17 car things that you had bought immediately  
18 before going -- prior to going to Atlanta?

19 A No.

20 Q You said that you bought the gun on,  
21 what, the 15th, which would have been a couple  
22 or three days before going over there; right?

23 A Right.

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1 Q Okay. Max is M-A-X?

2 A Right.

3 Q It's Maxwell, isn't it? For Maxwell?

4 A Right. Maxwell.

5 Q And since that time, you say you've had  
6 one at Fairview Credit Union?

7 A FedMont.

8 Q FedMont. And then also you had a  
9 account for a while at AmSouth?

10 A Uh-huh.

11 Q Were both of those just checking  
12 accounts?

13 A Yes. I've still got an account through  
14 FedMont now. That's who financed the car.

15 Q That's who finances the new Corvette?

16 A Yes.

17 Q Is that the reason you have an account  
18 there?

19 A Yes.

20 Q All right. Now, let's see. Mr. Long,  
21 it's your testimony today that Felicia is the  
22 one who told you that your vehicle was missing;  
23 correct?

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1 Q Would that have been the most recent  
2 purchase out of the things that were in the car?

3 A Yeah.

4 Q You had bought the rings and the  
5 bracelets before then?

6 A Yes.

7 Q Before you bought the gun?

8 A I think so.

9 Q Okay.

10 A I'm not for sure.

11 Q You didn't get any receipts for the  
12 rings or the bracelets when you bought them on  
13 the street, did you?

14 A No.

15 Q They wouldn't have given you those?  
16 That's not the way that business would be done?

17 A Right.

18 Q Okay. There wasn't any kind of receipt  
19 from the watch from your nephew, was it?

20 A No.

21 Q Was the cash in your car left over from  
22 the settlement of the lawsuit? I mean, was it  
23 part of the lawsuit settlement money or not?

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43 (Pages 169 to 172)

## MARTIN O. LONG

<p>1 A Yeah.</p> <p>2 Q It was?</p> <p>3 A Yeah.</p> <p>4 Q Now, when you gave this statement,</p> <p>5 Exhibit 10, we talked about, you said it was not</p> <p>6 left over from the lawsuit. Which one was it?</p> <p>7 I just want to make sure.</p> <p>8 A Yeah, it is.</p> <p>9 MR. BURGE: Object to the form.</p> <p>10 Q Let's see if I can find that and make</p> <p>11 sure we're straight.</p> <p>12 All right. Now, in the statement, it</p> <p>13 appears that you said that it was not left over</p> <p>14 from the settlement, but regardless of what it</p> <p>15 says in this statement, what you're telling me</p> <p>16 now is that it was left over from the</p> <p>17 settlement?</p> <p>18 MR. BURGE: Object to the form.</p> <p>19 A Yes.</p> <p>20 Q Okay. What color was the watch, the</p> <p>21 watch that was --</p> <p>22 A Gold.</p> <p>23 Q Okay.</p> <p>Page 173</p>	<p>1 MR. BURGE: What's the date on that?</p> <p>2 MR. NEWMAN: March 4 is the letter and</p> <p>3 the receipt is March 10 on the letter.</p> <p>4 Q Do you know if that letter was -- we</p> <p>5 can look at it and see. This statement was</p> <p>6 taken March 31. So you would have gotten that</p> <p>7 letter -- at least according to the receipt that</p> <p>8 says March 10, you would have gotten it about</p> <p>9 three weeks before that; right?</p> <p>10 A Okay.</p> <p>11 Q Now, I asked you before about Pearlle</p> <p>12 Harris. Do you remember that?</p> <p>13 A Who?</p> <p>14 Q Pearlle Harris. And we looked at the</p> <p>15 transcript that you said you didn't remember</p> <p>16 talking to her about?</p> <p>17 A Right.</p> <p>18 Q You still don't remember that?</p> <p>19 A No.</p> <p>20 Q Okay. Fair enough. Defendant's</p> <p>21 Exhibit 5 is various documents that appear to</p> <p>22 deal with your car or a car. And I want to just</p> <p>23 go through those with you real quick. What's</p> <p>Page 175</p>
<p>1 A It had like white little diamonds on</p> <p>2 it.</p> <p>3 Q Okay. Did you ever tell anyone it was</p> <p>4 silver instead of gold? Do you recall?</p> <p>5 A No.</p> <p>6 Q Let me show you what's been marked as</p> <p>7 Defendant's Exhibit 3 to your deposition,</p> <p>8 Mr. Long. It's a letter that was written to</p> <p>9 you, and it was one of those ones you've got to</p> <p>10 sign for. And it appears to have your signature</p> <p>11 on page 2 of the exhibit.</p> <p>12 A What's that? Oh, something I got</p> <p>13 through the mail?</p> <p>14 Q Yes, sir. Does that look like your</p> <p>15 signature?</p> <p>16 A Uh-huh.</p> <p>17 Q It's got that date on it, March 10,</p> <p>18 2005.</p> <p>19 A Okay.</p> <p>20 Q And in it this letter says that --</p> <p>21 well, the letter says what it says. Did you</p> <p>22 receive that letter?</p> <p>23 A Yes.</p> <p>Page 174</p>	<p>1 the first page of Exhibit 5? Can you tell me</p> <p>2 what this is? It says plug on it. One plug</p> <p>3 sold. That date is 9, February.</p> <p>4 A Oh, yeah. That's like a -- you know</p> <p>5 how the Vette lights go up?</p> <p>6 Q Yes, sir.</p> <p>7 A Each corner has a little plug that you</p> <p>8 can -- it pops out. I don't know what they</p> <p>9 really used for. But one of mine was popped</p> <p>10 out. And I just put it in there so when it</p> <p>11 comes up the ring can't go inside and hit the</p> <p>12 bulb itself.</p> <p>13 Q It's just a replacement part?</p> <p>14 A Uh-huh.</p> <p>15 Q All right. Now, what about this second</p> <p>16 page? It looks like some kind of a plane ticket</p> <p>17 at the bottom. Do you know what that is?</p> <p>18 A I don't know what that is.</p> <p>19 Q It's got Tuesday circled on it. You</p> <p>20 don't know. Third page is Verastar. Do you</p> <p>21 know who Verastar is?</p> <p>22 A That's where they had the car.</p> <p>23 Q Did you pay the Verastar or did State</p> <p>Page 176</p>

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1 **Farm pay Verastar?**

2 A State Farm paid, but I had to pay  
3 something because they paid it up to a certain  
4 limit but I still had to go down there and  
5 pay...

6 **Q Is that where it was when you went to**  
7 **get it?**

8 A Uh-huh.

9 **Q Do you remember how much you paid to**  
10 **get it?**

11 A No.

12 **Q Okay. Page 4 is Top Cat Towing. It**  
13 **looks like a record of the towing and the bill**  
14 **for the towing for the Corvette by Top Cat**  
15 **Towing. Did you pay Top Cat?**

16 A I think I did. I don't remember.

17 **Q Or did State Farm pay Top Cat, or do**  
18 **you remember one way or another?**

19 A I don't remember who paid them, whether  
20 I paid them or State Farm.

21 MR. NEWMAN: This is page 4 to Exhibit  
22 5.

23 MR. BURGE: Is it Bates stamped?

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1 title on the vehicle. Do you think that's what  
2 it might be?

3 A Yeah.

4 **Q And then, again, I'll show you what**  
5 **looks to me to be the back of the title of the**  
6 **car, and about four lines down, it's got, again,**  
7 **a place for -- one, two, three blocks down, it's**  
8 **got a place for a signature. Is that your**  
9 **signature, Martin O. Long?**

10 A Yeah.

11 **Q Okay. I'll show you what's been**  
12 **Exhibit Number 6. Is the affidavit that you**  
13 **filled out with regard to the loss of your**  
14 **vehicle?**

15 A Yes.

16 **Q And that's your signature on the last**  
17 **page of it?**

18 A Yes.

19 **Q And then I wanted to show you what's**  
20 **been marked as 7. Do you recognize that?**

21 A Yeah.

22 **Q What is it?**

23 A The tag, the registration.

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1 MR. NEWMAN: No. It's part of your  
2 stuff, I think.

3 **Q Okay. And this is --**

4 A That's where I bought the car from,  
5 City Auto Sales.

6 **Q City Auto Sales. The next page that's**  
7 **got Re: Martin O. Long at the bottom. That's**  
8 **from -- dealing with the purchase of the**  
9 **Corvette; right?**

10 A Uh-huh.

11 **Q And then this is -- looks like a title**  
12 **on a 2000 Chevrolet when it was owned by one**  
13 **Shanon Hayes. Do you know who the -- you bought**  
14 **it, of course, from City Auto Sales; right?**

15 A Right.

16 **Q Do you know what this title has**  
17 **anything to do with here?**

18 A No.

19 **Q On the next page is an application for**  
20 **Certificate of Title, and down at the bottom it**  
21 **says Martin O. Long. Is that your signature?**

22 A Yes.

23 **Q Probably where you applied for the**

Page 178

1 **Q Is that the title, or is it the tag**  
2 **receipt?**

3 A It's the tag receipt. Registration.

4 **Q And the second page of this Exhibit 7**  
5 **appears to be what the reverse of the tag**  
6 **receipt would be?**

7 A Are you talking about the back of it?

8 **Q Yes.**

9 A Yes.

10 **Q Okay. Defendant's Exhibit 8 is some**  
11 **documents from Big 10 Tire. I know you're**  
12 **tired. I'm moving fast. Do these documents --**  
13 **are those the documents that substantiate the**  
14 **work that you got done at Big 10 Tire on the**  
15 **car?**

16 A Yes.

17 **Q Okay. And I think we've looked at this**  
18 **as part of -- do you recognize in 9 -- I pulled**  
19 **it out separately -- but that's one of the pages**  
20 **from the De Kalb police report; correct?**

21 A Correct.

22 **Q All right. And those are the -- those**  
23 **things that you reported there are the same**

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45 (Pages 177 to 180)

## MARTIN O. LONG

1 things that are on the form that you handwrote  
 2 and gave to State Farm; correct?  
 3 A Correct.  
 4 Q And then I get to Defendant's  
 5 Exhibit -- just to keep the Record clear, I'm  
 6 going to mark another copy of the manufactured  
 7 home policy, if we haven't done it in the past.  
 8 But, again, this Defendant's Exhibit 11 appears  
 9 to be a policy from State Farm on your trailer.  
 10 Have you ever seen that before, or do you  
 11 recognize it?  
 12 A Like I said, I think I remember this  
 13 right here.  
 14 Q That's called the declarations page.  
 15 You think you may have seen that. But anyway,  
 16 we do know that it was a Mike Devers -- sold  
 17 through his agency; correct? And at the time,  
 18 it was Chase Finance?  
 19 A Right.  
 20 Q Okay. Final thing I want to show you  
 21 here is Defendant's Exhibit 12 to your  
 22 deposition. And Defendant's Exhibit 12, can you  
 23 identify that, please? I think it's the

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1 accident report that dealt with when you shot  
 2 through the roof of the car.  
 3 A Okay.  
 4 Q Have you ever seen it before? If you  
 5 haven't ever seen it before, you can just say  
 6 I've never seen it before.  
 7 A Yeah, I saw it before.  
 8 Q Is that what that relates to?  
 9 A Uh-huh.  
 10 Q The date on that would be the date that  
 11 you did that?  
 12 A Yes.  
 13 Q All right. Now, Mr. Long, who was  
 14 present when you came into this office here and  
 15 there was a lady lawyer and Mr. Smith and you  
 16 brought in a bunch of documents with you that  
 17 they asked you to bring in?  
 18 A Right.  
 19 Q There was a court reporter like Stacey  
 20 here taking down what you said; correct?  
 21 A Correct.  
 22 Q Who else was here?  
 23 A That was it.

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1 Q Mr. Burge wasn't here then?  
 2 A No.  
 3 Q That was before he was involved?  
 4 A Right.  
 5 Q One more run through and then we'll  
 6 have it. I've got two more questions. When you  
 7 gave the answers that are reflected in Exhibit  
 8 10, were you telling the truth at that time?  
 9 A Exhibit 10?  
 10 Q Yes, sir. That's that statement that  
 11 you made here at the lawyer's office with the  
 12 lady lawyer.  
 13 MR. BURGE: Asked and answered.  
 14 A Are you talking about --  
 15 Q Exhibit 10.  
 16 A -- when I said all the stuff I had in  
 17 the car?  
 18 Q Well, you want to take that out and say  
 19 with respect to the stuff you had in the car at  
 20 the time that you gave the statement you were  
 21 not telling the truth?  
 22 A Meaning everything I said was true  
 23 except for what I said I had in the car?

Page 183

1 Q Yeah.  
 2 A Yeah.  
 3 Q Everything that's in this statement  
 4 you're saying was the truth except for the part  
 5 that dealt with what you had in the car?  
 6 A Right.  
 7 Q And you're saying what you said in the  
 8 car you made some of that up because you were  
 9 mad at State Farm?  
 10 A Right.  
 11 Q And you overstated the value of what  
 12 was in the car?  
 13 A On the clothes, yeah.  
 14 Q On the clothes?  
 15 A Right.  
 16 Q And you've at some point -- I'm not  
 17 saying today -- but at some point you had read  
 18 through this and it looked like to you that it  
 19 was accurate, true, and correct?  
 20 A Correct.  
 21 Q Looking at Exhibit 10, now?  
 22 A Correct.  
 23 MR. NEWMAN: That's all I've got.

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46 (Pages 181 to 184)



**MARTIN O. LONG**

1 Thanks.  
 2 Have you got anything, Tucker?  
 3 EXAMINATION  
 4 BY MR. BURGE:  
 5 Q Mr. Long, you had a relationship with  
 6 State Farm Fire and Casualty Company that went  
 7 back a number of years before this 2000  
 8 Chevrolet Corvette was stolen; true?  
 9 A True.  
 10 Q You had a number of policies with that  
 11 company?  
 12 A Yes.  
 13 Q You purchased those policies through  
 14 Mike Devers' agency?  
 15 A Yes.  
 16 Q You purchased a homeowners policy from  
 17 him?  
 18 A Yes.  
 19 Q You purchased coverages on other  
 20 automobiles, the Mustang and the Volvo?  
 21 A Yes.  
 22 Q And you paid premiums to State Farm for  
 23 those different coverages?

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1 Q Did you steal your Corvette?  
 2 A No.  
 3 Q Did the State Farm agency hesitate to  
 4 take your premium for the Corvette?  
 5 A No.  
 6 Q Did the State Farm agent or anyone on  
 7 State Farm's behalf ever suggest that State Farm  
 8 would hesitate to pay any claim on the policy  
 9 that you purchased for the Corvette because you  
 10 were a disabled veteran?  
 11 A No.  
 12 Q Because you were divorced?  
 13 A No.  
 14 Q Because you were disabled and  
 15 unemployed?  
 16 A No.  
 17 Q Because you had made previous claims?  
 18 A No.  
 19 Q Did anyone at State Farm suggest that  
 20 in the event you made a claim for that Corvette  
 21 that it would be sent to the special  
 22 investigation unit of that company?  
 23 A No.

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1 A Yes.  
 2 Q You paid State Farm what they  
 3 determined was going to be the premium?  
 4 A Yes.  
 5 Q You had no input in how much the  
 6 premium should be?  
 7 MR. NEWMAN: Object to the form of the  
 8 question.  
 9 A No.  
 10 Q State Farm determined how much you  
 11 would have to pay if you wanted insurance with  
 12 them for those coverages?  
 13 A Yes.  
 14 Q And you paid it?  
 15 A Right.  
 16 Q And they accepted it?  
 17 A Right.  
 18 Q Each time?  
 19 A Yes.  
 20 Q You had made some claims during the  
 21 years of your relationship with State Farm for  
 22 various matters?  
 23 A Right.

Page 186

1 Q Did you know this claim had been sent  
 2 to the special investigation unit of that  
 3 company six days after you filed the claim?  
 4 A No.  
 5 Q And I'm saying claim, but actually, you  
 6 filed two claims under two separate policies;  
 7 true?  
 8 A True.  
 9 Q You had an automobile policy?  
 10 A Yes.  
 11 Q And you filed a claim under that  
 12 automobile policy for the loss and damage to  
 13 your car?  
 14 A Right.  
 15 Q You also filed a claim under a  
 16 homeowners policy?  
 17 A Yes.  
 18 Q Was that for the lost contents of the  
 19 car?  
 20 A Yes.  
 21 Q Were you told that the special  
 22 investigations unit was commonly referred to as  
 23 their fraud unit?

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47 (Pages 185 to 188)

## MARTIN O. LONG

<p>1 A No.</p> <p>2 Q Did they tell you that when claims are</p> <p>3 sent to the special investigations unit that a</p> <p>4 higher percentage of those claims are denied</p> <p>5 than claims that are handled through the regular</p> <p>6 claims process?</p> <p>7 MR. NEWMAN: Object to the form of the</p> <p>8 question.</p> <p>9 A No.</p> <p>10 Q At the time that your car was stolen,</p> <p>11 were you current on your bills?</p> <p>12 A Yes.</p> <p>13 Q Were you having any financial problems?</p> <p>14 A No.</p> <p>15 Q Were any creditors chasing you?</p> <p>16 A No.</p> <p>17 Q Had all of your creditors been paid off</p> <p>18 with the settlement proceeds from your shoulder</p> <p>19 injury claim against the railroad?</p> <p>20 A Yes.</p> <p>21 Q Did you own that Corvette free and</p> <p>22 clear?</p> <p>23 A Yes.</p> <p style="text-align: right;">Page 189</p>	<p>1 of the hotel on the night of February 18, 2005</p> <p>2 did that car have any mechanical problems?</p> <p>3 A No.</p> <p>4 Q Were there any problems with the</p> <p>5 brakes?</p> <p>6 A No.</p> <p>7 Q Do you know who took the car?</p> <p>8 A No.</p> <p>9 Q Do you know if State Farm performed any</p> <p>10 forensic investigation to determine the identity</p> <p>11 of people who had been in that car?</p> <p>12 A No.</p> <p>13 Q Do you know whether the police took any</p> <p>14 fingerprints?</p> <p>15 A No.</p> <p>16 Q After the car was recovered, was there</p> <p>17 any damage to the brake system?</p> <p>18 A Yes.</p> <p>19 Q Had all the brake fluid been drained?</p> <p>20 A Yes.</p> <p>21 Q Were there vice grips clamping off</p> <p>22 certain hoses from the brakes under the car?</p> <p>23 A Yes, it was</p> <p style="text-align: right;">Page 191</p>
<p>1 Q Did you want to sell this car?</p> <p>2 A No.</p> <p>3 Q Did you want to get rid of this car?</p> <p>4 A No.</p> <p>5 Q You had made a number of improvements</p> <p>6 to the car?</p> <p>7 A Yes.</p> <p>8 Q Had you actually made an improvement on</p> <p>9 the car the very day that you took the trip to</p> <p>10 Atlanta?</p> <p>11 A Yes.</p> <p>12 Q Could you have sold the car easily?</p> <p>13 A Yeah, I could have sold it if I wanted</p> <p>14 to sell it.</p> <p>15 Q Could you have sold it quickly?</p> <p>16 A Yeah.</p> <p>17 Q How long had you wanted a car like</p> <p>18 that?</p> <p>19 A I wanted a Vette period all my life,</p> <p>20 but since that car came out in -- those cars</p> <p>21 came out in '97. I wanted one since they come</p> <p>22 out in '97.</p> <p>23 Q At the time you parked it out in front</p> <p style="text-align: right;">Page 190</p>	<p>1 Q Had the brake calipers been disabled?</p> <p>2 A Yeah. They had been removed.</p> <p>3 Q Was there damage to the front bumper --</p> <p>4 A Yes.</p> <p>5 Q -- at the time you parked it before it</p> <p>6 was stolen?</p> <p>7 A No.</p> <p>8 Q Afterwards was there damage in that</p> <p>9 area?</p> <p>10 A Yes.</p> <p>11 Q Okay. Did you ever use more than one</p> <p>12 set of keys -- the set of keys that there's a</p> <p>13 picture of -- to operate this car?</p> <p>14 A No.</p> <p>15 Q Do you know that the salespeople for</p> <p>16 City Auto Sales of Hueytown told the State Farm</p> <p>17 claims representative that he only remembered</p> <p>18 you getting one set of keys? Did the claim</p> <p>19 representative ever tell you that?</p> <p>20 A No.</p> <p>21 Q Do you remember telling the claims</p> <p>22 representative that another set of keys may have</p> <p>23 been inside the car?</p> <p style="text-align: right;">Page 192</p>

## MARTIN O. LONG

1 A I could have told him that.

2 Q If there was a second set of keys,  
3 could it have been inside the car?

4 A Yeah. I mean, you know, like I say, as  
5 I look back on it -- I mean, they haven't came  
6 up yet. They ain't in the house nowhere.

7 Q Were there items taken from the car?

8 A Yes.

9 Q The seats?

10 A Right.

11 Q The T-tops?

12 A Uh-huh.

13 Q That's a yes?

14 A Yes.

15 Q And you mentioned personal property  
16 items --

17 A Yes.

18 Q -- were taken from the car?

19 A Right.

20 Q And would it be fair to say it was  
21 just -- the car was ransacked?

22 MR. NEWMAN: Object to the form of the  
23 question.

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1 A I'd say maybe a little bit more. It

2 was really worth more than that when I bought  
3 it. But once I just gave them cash, they just  
4 said \$25,000.

5 Q After buying the car for cash, did you  
6 use it as collateral so that any bank would have  
7 a lien or encumbrance on it?

8 A No.

9 Q You have money coming in from your  
10 disability?

11 A Yes.

12 Q Have you always been able to make ends  
13 meet and pay your bills on that money since the  
14 settlement occurred?

15 A Yes.

16 Q Your disability -- well, I'll ask  
17 something else. Were the tires and rims that  
18 were on the car when it was recovered -- at  
19 least when you first saw it after it was  
20 recovered -- the same as had been on it?

21 A No.

22 Q Did the State Farm representative tell  
23 you that the hotel personal that he interviewed

Page 195

1 A Yes.

2 MR. NEWMAN: Tucker, I've let you lead  
3 him on every question so far. Let's ask  
4 questions from this point forward.

5 Q Have you been unable to find the keys  
6 elsewhere?

7 A No, I haven't found the keys.

8 Q Okay. Was the car safe to drive  
9 without brakes?

10 A No.

11 Q You made a claim for the fair value of  
12 the stolen car under your automobile policy?

13 A Yes.

14 Q And for the contents of the car under  
15 your homeowners policy?

16 A Yes.

17 Q Did you misrepresent anything about the  
18 value of that stolen car in the claim you made  
19 for it under your automobile policy?

20 A No.

21 Q Based on the improvements that you had  
22 made to it, was it worth the same amount that  
23 you paid for it, more, or less?

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1 told him that there had been other problems with  
2 cars being vandalized in the area?

3 MR. NEWMAN: Object to the form of the  
4 question.

5 A No, he didn't.

6 Q And you saw the document that they  
7 showed you earlier that reflects auto theft is  
8 the number one pastime in Atlanta, or something  
9 to that effect?

10 A Yeah.

11 Q You don't know who it was who took your  
12 car, do you?

13 A No, I don't.

14 Q Do you know whether Corvettes are  
15 subject to damage on the front bumper if they're  
16 towed?

17 A Yeah. You said are they subject to  
18 damage?

19 Q Right.

20 A Yes.

21 Q And was the damage that you saw  
22 consistent with that?

23 A Yes.

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49 (Pages 193 to 196)

## MARTIN O. LONG

<p>1 Q You called the police but they never 2 came? 3 A Right, they never come out there. 4 Q Did you wait for them? 5 A Yes. 6 Q Did you call them back when they didn't 7 come the first time? 8 A Yeah. 9 Q Do you know when they made their 10 report, the police made their report? 11 A No. 12 Q Do you know who sent you Exhibit 10 for 13 sure? 14 A Do I know who sent it to me for sure? 15 Q Uh-huh. 16 A Well, not really. 17 Q Do you know for sure that you did see 18 it at one time before today? 19 A Oh, yeah. Yeah. I remember seeing it. 20 Q And did you bring these materials that 21 are attached to Exhibit 10 to your examination? 22 A Yes. 23 Q Did you try to get them all the</p> <p style="text-align: right;">Page 197</p>	<p>1 FURTHER EXAMINATION 2 BY MR. NEWMAN: 3 Q What was the improvement that you did 4 on the Corvette on the day that you went over to 5 Atlanta? 6 A I bought some -- the rims the same day. 7 Once I -- 8 MR. BURGE: No. 9 MR. NEWMAN: Excuse me, Tucker. Excuse 10 me, Tucker. Let me get this from him. 11 A Repeat that. 12 Q What did you buy for the Corvette on 13 the day -- the improvement that you bought for 14 the Corvette on the day you went over to 15 Atlanta? 16 A I didn't buy nothing the day I went to 17 Atlanta. 18 Q Oh, you didn't? 19 A Oh, you're talking about Big 10 Tire. 20 I got my tires put on. That was in Prattville. 21 Okay. 22 Q What day did you get the tires put on? 23 A Let me look on this receipt and I can</p> <p style="text-align: right;">Page 199</p>
<p>1 information that they wanted? 2 A I did. 3 Q Okay. 4 MR. BURGE: You've had a -- some 5 document in here, but I couldn't figure out what 6 the date was. It turned out to be March the 7 2nd. Do you know about that? Do you know which 8 number that was? 9 MR. NEWMAN: I don't know. 10 Q Do you know what, if anything, the 11 claims man did after speaking to the 12 representative from City Auto Sales of Hueytown 13 who said that he believes there was only one set 14 of car keys? 15 A No. 16 Q But he never told you that? Did anyone 17 from State Farm ever tell you that, you know, 18 you say there was two sets of keys but the City 19 Auto Sales representative only remembers one 20 set? Were you ever told anything in that 21 substance? 22 A No, I wasn't. 23 MR. BURGE: I think that's all I have.</p> <p style="text-align: right;">Page 198</p>	<p>1 tell you. 2 Q Was that the most recent repair that 3 was done or the most recent improvement that was 4 done? 5 A Right. 6 Q Okay. That's fine. We can look it up. 7 A What's the date on here? 8 MR. BURGE: The first one, the tire rod 9 2-18. 10 Q 2-18, so that was the Friday; right? 11 A Yeah. 12 Q When you bought this car, you bought it 13 from, what, Car Auto Sales in Hueytown? 14 A City Auto Sales. 15 Q City Auto Sales in Hueytown. Did you 16 get one or two sets of keys when you bought it? 17 A I think I got two sets of keys. 18 Q Two sets of keys when you bought it? 19 A I think I did. 20 MR. NEWMAN: Thank you. That's all. 21 FURTHER EXAMINATION 22 BY MR. BURGE: 23 Q Are you absolutely positive?</p> <p style="text-align: right;">Page 200</p>

50 (Pages 197 to 200)



MARTIN O. LONG

1 A I ain't going to say I'm positive, but  
2 I'm, you know...

3 FURTHER EXAMINATION

4 BY MR. NEWMAN:

5 Q Did your lawyer just shake his head at  
6 you when he asked you that question?

7 A No. I didn't see him.

8 Q You didn't see him?

9 A (Witness shakes head.)

10 Q Do you think you got two sets of keys  
11 or one set of keys from Hueytown?

12 A I don't know how many I got.

13 Q You don't know how many?

14 A No, sir.

15 Q Don't remember one way or another?

16 A No.

17 Q Have you testified before on several  
18 occasions that you got two sets of keys?

19 A Yeah, I did.

20 MR. NEWMAN: Okay. That's all. Thank  
21 you, sir.

22 FURTHER DEPONENT SAITH NOT  
23 C E R T I F I C A T E

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1  
2 STATE OF ALABAMA )

3  
4 COUNTY OF MONTGOMERY )

5  
6  
7 I hereby certify that the above and  
8 foregoing deposition was taken down by me in  
9 stenotype, and the questions and answers thereto  
10 were transcribed by means of computer-aided  
11 transcription, and that the foregoing represents  
12 a true and accurate transcript of the testimony  
13 given by said witness upon said hearing.

14 I further certify that I am neither of  
15 counsel, nor kin to the parties to the action,  
16 nor am I in anywise interested in the result of  
17 said cause.

18  
19  
20 -----  
20 STACEY L. JOHNSON, Certified  
21 Shorthand Reporter and  
21 Commissioner for the State of  
22 Alabama at Large.

22  
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51 (Pages 201 to 202)

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Page 1	Page 3
<p>1 IN THE UNITED STATES DISTRICT COURT  2 FOR THE MIDDLE DISTRICT OF ALABAMA  3 NORTHERN DIVISION</p> <p>4 MARTIN O. LONG,  5  6 Plaintiff,  7  8 vs. CIVIL ACTION FILE  9 NO. 2:06CV816-MHT  10  11 STATE FARM FIRE &amp; CASUALTY  12 COMPANY, a corporation,  13 Defendant.  14</p> <p style="text-align: center;">DEPOSITION OF TODD SMITH</p> <p>The deposition of TODD SMITH was taken before  7:55 15 Sharon A. Gabrielli, RPR, commencing at  16 on April 26, 2007, at the Hartsfield-Jackson  17 International Airport, Suite 300,  18 Atlanta, Georgia.  19  20 --oOo--  21  22  23  24  25</p>	<p>1 INDEX  2 EXAMINATION  3 Witness Name Page  4 Todd Smith  5 By Mr. Burge ..... 7  6  7 EXHIBITS  8  9 Exhibit Description Page  10 1 State Farm Auto Claim Manual 30  11 2 State Farm Operation Guides 30  12 3 State Farm Mission Statement 35  13 4 State Farm Good Neighbor Service 35  14 5 "Red Flags" email (2/22/05) 51  15 6 Recommendation for assigning all 3 claims 54  16 to SIU (2/22/05)  17 7 SIU Assignment Sheet 55  18 8 Referral of 2/13/05 auto claim to SIU 58  19 9 Auto Claim Service Record for 2/13/05 claim 61  20 10 Damage Report 62  21 11 Photographs 62  22 12 Police Report 62  23 13 Property Loss Preliminary Report 63  24 14 Authorization to Pay Claim 63  25 15 Declaration page for Martin Long's  auto policy 65</p>
Page 2	Page 4
<p>1 APPEARANCES  2  3  4  5  6 Appearing For the Plaintiff:  7  8 FRANK TUCKER BURGE, ESQ.  9 Burge &amp; Burge  10 850 Park Place Tower  11 2001 Park Place North  12 Birmingham, Alabama 35203  13 205.251.9000  14  15  16  17  18  19 Appearing For the Defendant:  20  21 JAMES B. NEWMAN, ESQ.  22 Helmsing, Leach, Herlong,  23 Newman &amp; Rouse, P.C.  24 150 Government Street  25 Suite 2000  Mobile, Alabama 36602  251.432.5521  Also Present:  Tony D. Nix, State Farm  --oOo--</p>	<p>1 EXHIBITS (CONTINUED)  2  3  4 Exhibit Description Page  5 17 Auto Policy 68  6 18 Referral of 2/19/05 auto claim to SIU 69  7 19 Auto Claim Service Record for 2/19/05 claim 66  8 20 Property Loss Preliminary Report for 2/19/05 71  auto claim  9 21 Auto Claim Committee Report 82  10 22 Letter sending Affidavit of Theft 97  11 23 Affidavit of Theft 97  12 24 Ram Naidu Interview 98  13 25 Martin Long Interview 102  14 26 Police Reports 106  15 27 Auto Theft Has A New Face 107  16 28 Evelyn Long Interview Note 109  17 29 Valerie Temple letter (4/18/05) 110  18 30 Examination Under Oath letter 113  19 31 Credit Report 114  20 32 Credit Report 114  21 33 Bank Records 115  22 34 Cell Phone Records 116  23 35 Release 117  24 36 Settlement Statement 117  25 37 Settlement Check 117</p>

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-oOo-

Page 7

TODD SMITH  
 having been first duly sworn, was deposed and testified as follows:

EXAMINATION

BY MR. BURGE:  
 Q Tell us your full name, please.  
 A Todd –

MR. NEWMAN: Just for the record, we want to read and sign, please. Thank you.  
 Go ahead. I'm sorry, Tucker. Go ahead.

THE WITNESS: Todd Edward Smith.  
 Q (By Mr. Burge) Edward, singular?  
 A Yes.  
 Q What is your current address?  
 A I live in the Atlanta area, Atlanta, Georgia.  
 Q Address?

MR. NEWMAN: We're going to object to that. I mean, Tucker, I'll provide it to you subject to a protective order. I'll tell you that he does not live in Montgomery, Alabama or any place in Alabama. You can ask him about his family members. And I will agree to let him answer that – this part of the deposition, if you'll agree not to share it

Page 8

with anyone, including your client.  
 MR. BURGE: I don't intend to share this with anyone other than myself.  
 MR. NEWMAN: And specifically, I'm talking about your client. We don't want it shared with him just because of the guns and stuff like that.  
 MR. BURGE: That's fine.  
 MR. NEWMAN: Thank you very much.  
 Q (By Mr. Burge) My client, if you shot at him first, he will shoot back at you.  
 A That's fair.  
 Q Everybody in Alabama will do that. This is not a – just a Martin Long thing.  
 MR. NEWMAN: Well, I'm not trying to make an issue out of it. I'm just asking that, you know – and so you agree with that?  
 MR. BURGE: That's fine.  
 MR. NEWMAN: He's agreed he will not share it with his client. He's entitled to it in that situation, and we'll give it to him.  
 THE WITNESS: Okay. 607 Valley Run – that's two words – Valley Run Drive, Bremen, B-R-E-M-E-N, Georgia, 30110.

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1 Q (By Mr. Burge) Current age?  
2 A 39.  
3 Q Date of birth?  
4 A 7/6/67.  
5 Q Where did you grow up?  
6 A In Bremen.  
7 Q Education?  
8 A Graduated from Bremen High School, then I  
9 went to Jacksonville State University. And that's in  
10 Jacksonville, Alabama. And I graduated with a  
11 Bachelor's of Science in forensic science.  
12 Q And tell me about the forensic science that  
13 you studied. Is that studying chemistry data, or is it  
14 studying metal failure, or what is it studying?  
15 A I guess it would be the -- related to  
16 criminal justice.  
17 Q Is it part of the Criminal Justice  
18 Department?  
19 A Yes, it is.  
20 Q And what year did you graduate?  
21 A 1989.  
22 Q Do you have any military service?  
23 A No, I do not.  
24 Q What did you do when you got out of school at  
25 Jacksonville State?

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1 A Went to work. My first job was with the  
2 Wackenhut Corporation.  
3 Q Would you spell Wackenhut?  
4 A It's W-A-C -- I think it's either H or K. I  
5 I'm not sure -- E-N-H-U-T.  
6 Q What did they do?  
7 A They were a security company.  
8 Q Where are they located?  
9 A At that time I worked out of Atlanta, but  
10 they're all over the United States.  
11 Q What was your position?  
12 A Just an employee. I did background checks on  
13 people.  
14 Q Background checks for employment purposes?  
15 A Yes.  
16 Q How long did you do that?  
17 A Only a few months.  
18 Q And that was in 1989?  
19 A Yes.  
20 Q What job did you take next?  
21 A I guess my next full-time job would be with  
22 State Farm.  
23 Q When did you begin with State Farm?  
24 A My start date was January 1990.  
25 Q Have you ever worked in law enforcement?

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1 A No, I have not.  
2 Q Are you married?  
3 A Yes, I am.  
4 Q Tell me about your family.  
5 A I got a wife and two little boys.  
6 Q How long have you been married?  
7 A 14 years.  
8 Q Only marriage for both?  
9 A Yes.  
10 Q And your lawyer says that -- or the lawyer  
11 for State Farm, who's here with us today, says that you  
12 don't have any relatives in Alabama?  
13 A I have some distant cousins in Alabama.  
14 MR. NEWMAN: I think I said  
15 Montgomery -- Montgomery, I said. It's more  
16 counties than that.  
17 MR. BURGE: It's four counties.  
18 MR. NEWMAN: Yeah, right.  
19 Q (By Mr. Burge) Do you have any distant  
20 cousins with the last name other than Smith?  
21 A Yes, I do.  
22 Q Okay. What are the last names of your  
23 relatives in Alabama?  
24 A Otwell, O-T-W-E-L-L.  
25 Q Botwell?

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1 A Otwell, O-T-W-E-L-L.  
2 Q And do you have any Smiths there?  
3 A Not that I know of.  
4 Q Do you know what part of Alabama the Otwells  
5 live in?  
6 A Aniston, Oxford area.  
7 Q What is the title of -- or the correct name  
8 of your employer?  
9 A Of my employer? State Farm Insurance  
10 Companies.  
11 Q Has that been your employer since January of  
12 1990?  
13 A Yes.  
14 Q Have you ever been employed directly by State  
15 Farm Fire & Casualty Company?  
16 A State Farm Fire & Casualty falls within State  
17 Farm.  
18 Q And is there State Farm Automotive?  
19 A There's a State Farm Mutual Automotive, yes,  
20 sir.  
21 Q Are there any others? State Farm Life?  
22 A There is a life company, yes, sir.  
23 Q Have you done work for State Farm Life?  
24 A No, I have not.  
25 Q What are the companies that you have done



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1 work for?  
2 A State Farm Mutual Company, State Farm Fire &  
3 Casualty Company, State Farm General. That's all I can  
4 recall.  
5 Q When you began in January of 1990, what was  
6 your position?  
7 A Claim representative.  
8 Q Where was your office?  
9 A In Decatur, Georgia.  
10 Q That's DeKalb County?  
11 A Yes, sir.  
12 Q Have you worked out of Decatur, Georgia, or  
13 DeKalb County ever since?  
14 A I worked at -- all over the state of Georgia.  
15 Q Has your office been in Decatur, or have you  
16 had offices all over the state of Georgia?  
17 A I've had offices in multiple locations.  
18 Q Have you ever worked in Alabama?  
19 A Yes, I have.  
20 Q When did you work in Alabama?  
21 A It's -- I started working in Alabama a few  
22 years ago.  
23 Q Have you ever had an office specially located  
24 in Alabama, or are you just talking about your  
25 investigation would take you into Alabama?

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1 A My investigation would take me into Alabama.  
2 Q And have you had specific offices all over  
3 the state where you've been transferred from place to  
4 place?  
5 A Yes, I have.  
6 Q How long were you a claims representative in  
7 Decatur?  
8 A I've been a claims representative for the  
9 full time I've been employed with State Farm.  
10 Q How long were you in Decatur?  
11 A Initially four years.  
12 Q Then where did you go?  
13 A I went to one of our field claim offices in  
14 Lithia Springs.  
15 Q So we're getting closer to Bremen?  
16 A Getting closer to Bremen.  
17 Q How long?  
18 A I was there approximately three years.  
19 Q Then where?  
20 A Carrollton, Georgia.  
21 Q That's not a very far change, is it?  
22 A No, sir.  
23 Q How long were you there?  
24 A Approximately two years.  
25 Q That only takes us to '99?

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1 A Then I was in Fayette, Georgia.  
2 Q How long?  
3 A Three to four years. I'm not exactly sure.  
4 Q Then where?  
5 A Since then, I worked out of Marietta for  
6 approximately one year.  
7 Q That's where you are presently?  
8 A No, it's not.  
9 Q Where are you now?  
10 A I have an office, I actually have two offices  
11 that I use at the current moment, and that's back in  
12 Decatur and Carrollton. I split time between the two.  
13 Q Is that where you -- where did you go to  
14 right after Marietta?  
15 A Back to Decatur.  
16 Q And you're still there?  
17 A That's where my unit is located, yes, sir.  
18 Q And you also have an office in Carrollton?  
19 A Yes, sir.  
20 Q How long have you also had an office in  
21 Carrollton?  
22 A The same amount of time I've been back in  
23 Decatur, for the past approximately -- between a year  
24 and two years.  
25 Q When you first started out in Decatur, what

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1 kind of claims were you handling?  
2 A Just automobile related claims.  
3 Q At Lithia Springs?  
4 A Same thing.  
5 Q Carrollton?  
6 A Same thing.  
7 Q Fayetteville?  
8 A The same thing.  
9 Q Marietta?  
10 A The same thing.  
11 Q And at present?  
12 A The same thing. And now I also handle  
13 homeowners in addition to that as well.  
14 Q When did you start handling both auto related  
15 claims and homeowners claims?  
16 A Approximately two, two-and-a-half years ago.  
17 Q What would the date be when you moved to  
18 Decatur and Carrollton and began doing that kind of --  
19 began doing both?  
20 A I can't recall the exact date.  
21 Q Well, if we go back two-and-a-half years from  
22 the present date, it puts us around November of 2004.  
23 Does that sound correct?  
24 A I can't recall. I've changed so many  
25 different offices. I'm sorry.

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1 Q So you can't be any more specific than saying  
2 somewhere in the neighborhood of two, two-and-a-half  
3 years ago you started working in both claims?  
4 A That's right - that's right.  
5 Q How long has Mr. Nix been your boss?  
6 A Mr. Nix been my boss two separate times. He  
7 was my boss when I was in Fayetteville, and he was my  
8 boss when I started back in the Decatur, Carrollton  
9 area again, so I would say approximately six years.  
10 Q When you were in Marietta, were you in the  
11 SIU?  
12 A Yes, sir.  
13 Q When you were in Fayetteville, were you in  
14 the SIU?  
15 A Yes, sir.  
16 Q When you were in Carrollton, were you in the  
17 SIU?  
18 A No, sir.  
19 Q Were you handling both homeowner's claims and  
20 auto-related claims when you adjusted Martin Long's  
21 claim?  
22 A Yes, I was.  
23 Q Would that have been right about the same  
24 time when you started doing both, when you handled his  
25 claim?

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1 A I had started handling prior to that. It  
2 would have been maybe six months to a year prior to  
3 that, maybe six - six months.  
4 Q When you worked in Fayetteville, were you  
5 doing only SIU claims?  
6 A Yes, sir.  
7 Q Marietta?  
8 A Yes, sir.  
9 Q And during the last several years in Decatur  
10 and Carrollton?  
11 A Yes, sir.  
12 Q In other words, it's two to two-and-a-half  
13 years you've been in Carrollton?  
14 A It's two, two-and-a-half years I've been in  
15 Carrollton and the Decatur area.  
16 Q Two to two-and-a-half years since you left  
17 Marietta?  
18 A Approximately, yes, sir.  
19 Q And when you handled Martin Long's claim, you  
20 handled both the homeowner's claim for him and two  
21 auto-related claims for him?  
22 A Yes, sir.  
23 Q When you started at State Farm, was there any  
24 sort of general training that you were provided?  
25 A Yes, sir.

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1 Q What was that?  
2 A They sent me to claims school and our  
3 corporate office in Bloomington, sent me to estimatics  
4 school, on-hands training, obviously.  
5 Q On-the-job training?  
6 A Yes, sir.  
7 Q That's what lawyers do, too. I asked a  
8 witness one time what they meant by on-the-job  
9 training, and the lawyer on the other side said "it's  
10 sort of like what you're doing right now." So I know  
11 that.  
12 How long was claim school?  
13 A Three weeks.  
14 Q How long was estimatics school?  
15 A Two weeks.  
16 Q Have you had any other training schools that  
17 you've gone to during the course of your career?  
18 A Yes, sir.  
19 Q What other training have you had?  
20 A Catastrophe training.  
21 Q How long was that?  
22 A That was approximately two weeks and then had  
23 on-the-job training with that.  
24 Q Any others?  
25 A Homeowner's school.

Page 20

1 Q How long was that?  
2 A The school itself was in Bloomington, it was  
3 for two weeks; however, there was a comprehensive study  
4 that went on for approximately three months after  
5 school.  
6 Q When did you actually go to the school?  
7 Would that have been in 2004 sometime?  
8 A No, I only recently went to school. I  
9 graduated from school in March of this year, '07.  
10 Q So you had not graduated from homeowner's  
11 school when you adjusted Martin Long's claim?  
12 A No, I had not.  
13 Q Had you had any homeowner's formal training  
14 when you started handling homeowner's claims in the SIU  
15 unit?  
16 A Yes, I had.  
17 Q What formal training had you had for  
18 homeowner policies?  
19 A The studying of builder's construction  
20 training, policies, and I guess you would call it  
21 on-the-job training or cross-training.  
22 Q Yeah, I'm talking about formal classroom.  
23 A Formal classroom?  
24 Q Right.  
25 A It was self-studies on the computer.

5 (Pages 17 to 20)

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1 Q Builder's construction, was that a school?  
2 A No, sir. It was a CD ROM-based class.  
3 Q Any other training that we haven't talked  
4 about?  
5 A Well, State Farm stresses continued  
6 education, so throughout my career, I've attended  
7 seminars sponsored by -- for example, Georgia Fire  
8 Investigators Association every year has a seminar and  
9 other industry-sponsored seminars where they would hold  
10 classes for approximately a week at a time. So I've  
11 had continued education throughout my career.  
12 Q What fire seminars have you been to?  
13 A I can't recall all of them. I've been to a  
14 couple in Savannah. I've been to a -- I think I've  
15 been to one in Orlando, one in Brunswick.  
16 Q Are you a certified fire investigator?  
17 A No, I'm not.  
18 MR. NEWMAN: SIU training.  
19 Q (By Mr. Burge) Your lawyer is whispering  
20 "SIU training." Can you hear him?  
21 MR. NEWMAN: Yeah, training in SIU; I  
22 didn't want to -- I can bring it up in cross,  
23 if you would like. I was trying to make sure  
24 that you heard it as well, Tucker.  
25 MR. BURGE: I did.

Page 22

1 THE WITNESS: Well, I have been -- I  
2 went to SIU school separate from all the  
3 other schools.  
4 Q (By Mr. Burge) How long was SIU school?  
5 A It was three weeks.  
6 Q When did you go to that?  
7 A It would have been 1999, I think.  
8 Q Any other formal training that you've had?  
9 A I've had other training, like on the  
10 computer, as far as like CD ROM-based training. I  
11 can't recall the exact names or when.  
12 Q Any that were -- that you relied upon in  
13 adjusting Martin Long's claim?  
14 A No more that I could recall.  
15 Q From time to time, have you been called upon  
16 to testify --  
17 A Yes, sir.  
18 Q -- in cases?  
19 How many times have you testified in the  
20 past?  
21 A Approximately half dozen.  
22 Q When was the first time you were called upon  
23 to testify?  
24 A I can't recall.  
25 Q Has it been more than ten years ago?

Page 23

1 A Probably.  
2 Q Tell me about the instances that you do  
3 recall testifying.  
4 A I recall testifying in a -- I've had a couple  
5 of bodily injury claims that I was the claim rep that  
6 handled the file and testified in those. I worked  
7 subrogation for a while with State Farm. I had a -- I  
8 testified in a subrogation case, diminution of value.  
9 And I testified in a -- a couple of arson cases. And  
10 I've also testified outside of State Farm.  
11 Q Tell me about that.  
12 A I had a friend of mine I was very close  
13 friends and worked part-time. He owned a convenience  
14 store, and he loaned his vehicle to another guy that we  
15 knew and with the instruction that this guy was going  
16 to wash his vehicle. And the guy never brought his  
17 vehicle back and eventually reported it stolen. And I  
18 was a witness to that, and I was called upon to testify  
19 after the guy was later arrested.  
20 Q Was your friend upset that his car had been  
21 stolen?  
22 A Actually, my friend is very nice. He was  
23 just trying to help this -- this gentleman out. He was  
24 disappointed.  
25 Q Did he get his car back in one piece?

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1 A He got his car back. Some items were missing  
2 from the car and -- outside of that, yes.  
3 Q And what was the nature of your testimony in  
4 that matter?  
5 A I testified on two bases: One, I witnessed  
6 the exchange of him giving him the keys with the  
7 instruction to go wash it, and he paid him cash up  
8 front. And secondly, I went to secure the vehicle from  
9 the police station that evening the gentleman turned it  
10 in, you know, for my friend; he had called me and asked  
11 me if I could go pick it up. My wife took me to pick  
12 it up. And when I got there, first off, the vehicle  
13 wouldn't start; and second off, I noticed that his  
14 child's car seat was missing and his golf clubs. My  
15 friend never took his golf clubs out of back of his  
16 Cherokee, and his golf clubs were missing. So I  
17 reported the matter. I went back into the police and  
18 reported it to them.  
19 Q The bodily injury claims, what was the nature  
20 of your testimony in those cases?  
21 A I recall one was a -- they disputed. We had  
22 settled a bodily injury claim with an injured claimant,  
23 and they had disputed that they actually did not sign a  
24 release with State Farm; however, at the time of the  
25 release, I had secured a copy of this person's driver's

6 (Pages 21 to 24)

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1 license that had their signature on it. And when it  
 2 went to -- I testified to the account that when we  
 3 settled, she signed the release, and eventually the  
 4 driver's license came out, and it was a match to her  
 5 other signatures and...  
 6 Q So one was a question of whether there was a  
 7 release of the claim?  
 8 A Yes, sir.  
 9 Q And what was the second bodily injury claim  
 10 about?  
 11 A I think it had something to do with a school  
 12 bus and a garbage truck or something hit on a gravel  
 13 road or something, and we insured the school system.  
 14 And I advised -- if I remember correctly, they had, you  
 15 know, a camera inside mounted in the school bus that  
 16 looked back in where the children were, and I viewed  
 17 the images from the camera. And I think I testified to  
 18 what I saw when the accident occurred. And I can't  
 19 recall really much else about it. It was many years  
 20 ago.  
 21 Q Do you think you maybe just said here's the  
 22 video that we looked at?  
 23 A Well, I -- I testified to the -- to the  
 24 video. And I'm not a lawyer, so I don't know; I think  
 25 they argued something about the admissibility about the

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1 video, but that was -- I just testified to what I saw.  
 2 Q Subrogation claims, is that when you were  
 3 doing mostly auto claims?  
 4 A Correct.  
 5 Q And you would go into court and say we paid  
 6 the -- our insured for the damage to his car, and we  
 7 say the damage was caused by someone else and we want  
 8 that someone else to repay us what we paid our insured?  
 9 A Correct.  
 10 Q So you just go into court and say this is  
 11 what we paid?  
 12 A Well, when called to go testify, I would.  
 13 Q What's a diminution of value case?  
 14 A Specifically I was involved in a subrogation  
 15 claim where the insured was -- another party struck our  
 16 insured's vehicle. We handled the claim; and then from  
 17 there, I took over the claim and attempted to recover  
 18 money back for State Farm. And they ended up claiming  
 19 that the insured's vehicle had been diminished in value  
 20 as a result of the accident.  
 21 Q And what was the nature of your testimony?  
 22 A Just my involvement in the subrogation claim  
 23 and...  
 24 Q Now, this wasn't Mr. Pope's big case against  
 25 State Farm over here, was it?

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1 A In Columbus?  
 2 Q Yeah.  
 3 A Yes, sir, it was.  
 4 Q It was?  
 5 A I don't know who Pope is, but I assume  
 6 that's --  
 7 Q It was a verdict in favor of the insured  
 8 since State Farm?  
 9 A Well, when I was involved, it wasn't the  
 10 actual class action lawsuit.  
 11 Q Okay.  
 12 A When I was involved, it was a lady; if I  
 13 remember correctly, it was McKenzie. And this  
 14 occurred -- this was prior to the class action lawsuit.  
 15 Q Okay. You never had to testify in the class  
 16 action lawsuit?  
 17 A I was called, I was subpoenaed, but I never  
 18 got -- they never actually made me testify.  
 19 Q How many arson cases did you say?  
 20 A Probably been a couple, two or three.  
 21 Q And what do you testify to in those?  
 22 A If memory serves me correctly, they were two  
 23 vehicle cases where the vehicles were recovered,  
 24 totally burned. And I was called upon to testify  
 25 regarding the results of our investigation and my

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1 inspection of the vehicles.  
 2 Q In those cases, did you determine that the  
 3 insured had burned their own cars?  
 4 A I believe in both those cases, the police  
 5 arrested our insured and -- if I remember correctly.  
 6 Q Well, without regard to whether or not the  
 7 police arrested them or did not arrest them, was it  
 8 your conclusion in both of those cases that the insured  
 9 had burned their own car?  
 10 A If I remember correctly, in both those cases,  
 11 the -- the insured failed to cooperate, and we never  
 12 got to a point to where we made a final decision.  
 13 Q When you say "failed to cooperate," is that  
 14 where you ask them to produce certain documents and  
 15 stuff and they -- they don't produce those documents?  
 16 A I think in this case, they were in jail. And  
 17 at the -- if I remember correctly, at the advice of  
 18 their attorney, they didn't -- they basically did not  
 19 sit for statement under oaths, did not provide  
 20 documents and basically withdrew their claims, if I  
 21 remember correctly.  
 22 Q And what was your involvement in testifying,  
 23 if they withdrew their cases?  
 24 A Prior to that, I -- the insureds had  
 25 submitted documents, affidavits of vehicle thefts. I

7 (Pages 25 to 28)



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<p style="text-align: right;">Page 29</p> <p>1 had inspected the vehicles, started an investigation on</p> <p>2 our end. And I mean, I can't remember everything --</p> <p>3 everything about it, what all documents they provided,</p> <p>4 but...</p> <p>5 Q Have you ever worked in the actuarial</p> <p>6 department of State Farm?</p> <p>7 A No, I have not.</p> <p>8 Q And those are the people that sort of design</p> <p>9 the products; is that your understanding?</p> <p>10 A To be honest, I don't know what they do.</p> <p>11 Q You don't know that they -- they're the</p> <p>12 department that decides what promises to -- to sell?</p> <p>13 A I always thought actuary had something to do</p> <p>14 with money, financing.</p> <p>15 Q Okay. Have you ever worked in the marketing</p> <p>16 department, people who are trying to advertise or -- or</p> <p>17 sell the --</p> <p>18 A No, I haven't.</p> <p>19 Q -- sell the products.</p> <p>20 Have you ever worked in the underwriting</p> <p>21 department, the department that decides whether or not</p> <p>22 to sell a specific promise to a specific person?</p> <p>23 A No, I have not.</p> <p>24 Q Your entire experience has been in the claims</p> <p>25 department?</p>	<p style="text-align: right;">Page 31</p> <p>1 that are in Exhibit 2? And I'll tell you those are the</p> <p>2 ones that your employer has produced to me in this</p> <p>3 case.</p> <p>4 A May I take this clip off?</p> <p>5 Q Please. I don't have a stapler big enough to</p> <p>6 staple something that size so I had to use the clip.</p> <p>7 A I can tell you I do not recall all the</p> <p>8 operations guides; so to answer your question, I don't</p> <p>9 know if this is all the operation guide.</p> <p>10 Q Do you recall any operation guides that you</p> <p>11 relied upon in handling any of the three claims that</p> <p>12 you handled for Martin Long that are not included in</p> <p>13 Exhibit 2?</p> <p>14 A Repeat that question again, I'm sorry.</p> <p>15 Q Do you recall any specific operations guides</p> <p>16 that you would have relied upon in adjusting any of the</p> <p>17 three claims that you handled for Martin Long that are</p> <p>18 not included in Exhibit 2?</p> <p>19 A Not that I can recall.</p> <p>20 MR. NEWMAN: This is off the record.</p> <p>21 (Whereupon, a discussion ensued off the record.)</p> <p>22 Q (By Mr. Burge) Are there any other manuals</p> <p>23 or standards or guidelines that you used in adjusting</p> <p>24 any of Martin Long's three claims other than those in</p> <p>25 Exhibit 1 and 2?</p>
<p style="text-align: right;">Page 30</p> <p>1 A Yes, sir.</p> <p>2 Q And are there certain standards and</p> <p>3 procedures that State Farm employees are trained and</p> <p>4 taught to follow in handling claims?</p> <p>5 A Yes, sir.</p> <p>6 (WHEREUPON, Exhibit No. 1 and Exhibit No. 2 were</p> <p>7 marked for identification.)</p> <p>8 Q (By Mr. Burge) Let me show you what are</p> <p>9 marked as Exhibits 1 and 2. Do you recognize Exhibit 1</p> <p>10 as the auto claims manual for State Farm?</p> <p>11 A Yes, sir.</p> <p>12 Q Is that a document that you -- that you used</p> <p>13 in adjusting the two claims that you handled in which</p> <p>14 Mr. Long made claims under his auto policy?</p> <p>15 A I used this -- this document in all my</p> <p>16 claims.</p> <p>17 Q Even in homeowner's claims?</p> <p>18 A Well, I don't use the auto claim manual in</p> <p>19 homeowner's claims.</p> <p>20 Q And Exhibit 2, do you recognize that as</p> <p>21 the -- at least a portion of the State Farm's operation</p> <p>22 guides?</p> <p>23 A Yes, sir, they appear to be operations</p> <p>24 guides.</p> <p>25 Q Are there more operation guides than those</p>	<p style="text-align: right;">Page 32</p> <p>1 A I don't know if -- if my boss is a standard</p> <p>2 or a guideline, but he's a -- a reference that I use.</p> <p>3 Q Are there certain recognized rules or</p> <p>4 standards that you are required to follow at State Farm</p> <p>5 when adjusting claims?</p> <p>6 A We -- I mean, the operations guide that</p> <p>7 you've got is -- is our guideline.</p> <p>8 Q And there are certain practices that are</p> <p>9 supposed to be followed, right?</p> <p>10 A Yes, sir.</p> <p>11 Q On the first page of Exhibit 1, it says that</p> <p>12 "State Farm's claims philosophy is to pay what we owe."</p> <p>13 Is that something that you're supposed to do?</p> <p>14 A Yes, sir.</p> <p>15 Q It says that "each claim, large or small,</p> <p>16 should be handled only on its own merits in accordance</p> <p>17 with the facts of the loss, the law, and the applicable</p> <p>18 coverage." Is that a standard that you're required to</p> <p>19 follow?</p> <p>20 A Yes, sir.</p> <p>21 Q And it says, "you don't decide cases based on</p> <p>22 irrelevant considerations." Is that something you're</p> <p>23 supposed to do?</p> <p>24 A Yes, sir.</p> <p>25 Q And it says that State Farm's claim</p>

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<p style="text-align: right;">Page 33</p> <p>1 department has an obligation to fairly investigate the  2 claims; is that right?  3 A Yes, sir.  4 Q You can't enter a claim investigation with a  5 biased viewpoint either toward paying the claim or  6 either toward denying the claim, can you?  7 A I never have.  8 Q But you're not supposed to, certainly not  9 supposed to?  10 A No, sir.  11 Q You're supposed to look only at facts, true?  12 A Correct.  13 Q And you're not supposed to decide a claim  14 based on speculation or based on guess work, right?  15 A You can decide claim based on the  16 preponderance of the evidence.  17 Q And you're using legal terms now, but you're  18 not supposed to -- you're supposed to base it on facts  19 rather than speculation, true?  20 MR. NEWMAN: I think speculation may be  21 troubling him, Tucker, the definition of it.  22 Q (By Mr. Burge) Do you know what speculation  23 is?  24 A Give me a definition.  25 Q Well, do you know what just surmising is, to</p>	<p style="text-align: right;">Page 35</p> <p>1 were trained to do is to treat the policy holder's  2 interest with equal regard to State Farm's?  3 A That's fair.  4 Q And you-all refer to that as your good  5 neighbor policy, right?  6 A Our commitment to our policy of a good  7 neighbor, yes, sir.  8 (WHEREUPON, Exhibit No. 3 and Exhibit No. 4 were  9 marked for identification.)  10 Q (By Mr. Burge) In fact, on your -- on your  11 Web site, you state what your company mission is, and  12 you state what service you'll provide. And I've given  13 you Exhibits 3 and 4, which come from your Web site.  14 Do you recognize those?  15 A I recognize our mission, our vision, our  16 shared values. To be honest, I haven't gone -- I  17 assume this is an access -- you went on on State Farm's  18 Web site to do. I haven't went on and seen this  19 specific document and looked at it in a while. I  20 recognize some of the verbiage in it, but when it  21 references like the Northridge, California earthquake  22 and 600 claims, I haven't looked at that.  23 MR. NEWMAN: He is looking at 4. He is  24 speaking of 4.  25 Q (By Mr. Burge) If you go down on 4 where the</p>
<p style="text-align: right;">Page 34</p> <p>1 guess, to --  2 MR. NEWMAN: Guess -- guess is a good  3 word. Just guess work.  4 THE WITNESS: No, we -- we don't use  5 guess work.  6 Q (By Mr. Burge) Certainly should not, right?  7 A I agree with that.  8 Q And you have to objectively evaluate the  9 facts that support the policy holder's claim, right?  10 A Yes, sir.  11 Q We're not supposed to deny a claim at State  12 Farm on insufficient information, are we?  13 A I would say that's correct.  14 Q Or on biased information?  15 A That's correct.  16 Q And when you take statements from people, it  17 is supposed to be an unbiased collection of the facts?  18 A Correct.  19 Q It's not like lawyering, where you try to box  20 somebody in and -- and get them to say something that's  21 helpful to one side or another because that's really  22 not what you're trying to do; isn't that right?  23 A Well, I'm not an attorney. I don't know what  24 y'all's motive is, but I know mine is not that.  25 Q Okay. So is it fair to say that what you</p>	<p style="text-align: right;">Page 36</p> <p>1 blue flag is, where it says that in the insurance  2 industry you are selling an intangible, where the  3 policy holder gives State Farm money; and if there's no  4 claim, then they get nothing in return. What they do  5 get for giving that money is the promise that when they  6 do make a claim, that State Farm will be there for them  7 and will treat them fairly; is that right?  8 A What it says is when you buy insurance, you  9 invest in an intangible. You don't have an object you  10 can set on a table or show your friends. What you do  11 have is our promise to provide protection and give  12 excellent service.  13 Q And part of that service is the claim  14 service?  15 A Yes, sir.  16 Q And to be treated like a good neighbor?  17 A Yes, sir.  18 Q I'm going to try to keep these in some order.  19 A Do you need these back?  20 Q Well, unless you need them, any time you need  21 them, let me know. There is 90 of them so far, and  22 there is going to be more eventually, so...  23 A Okay.  24 (Whereupon, a discussion ensued off the record.)  25 Q (By Mr. Burge) The standards in these</p>

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1 guidelines and principles that you followed, are -- or  
 2 that we've been discussing, did you follow these back  
 3 in 2005?  
 4 A Yes, I did.  
 5 Q They're just as applicable at that period of  
 6 time as they are today?  
 7 A Yes, sir.  
 8 Q At some point in time, you became involved in  
 9 handling three claims made by Martin Long; is that  
 10 true?  
 11 A Yes, sir.  
 12 Q Two of those claims were made under his  
 13 automobile policy, correct?  
 14 A Correct.  
 15 Q One of those claims involved a property  
 16 damage to a Mustang caused by a gunshot; is that right?  
 17 A Correct.  
 18 Q And in that particular Mustang claim,  
 19 Mr. Long was asking that State Farm honor its promise  
 20 to pay for property damage?  
 21 A To the Mustang, yes, sir.  
 22 Q Right. And he wanted them to pay under the  
 23 policy for repairs that were made to the Mustang?  
 24 A For damages to the Mustang.  
 25 Q For damages to the Mustang?

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1 A Yes, sir.  
 2 Q And another claim under the automobile  
 3 policy, he wanted -- he made a claim for State Farm to  
 4 pay the fair market value for a Corvette; is that  
 5 right?  
 6 A He made a claim for theft of that Corvette.  
 7 Q Right. And he wanted -- and he asked for  
 8 State Farm to pay the -- for the car?  
 9 A As a result of that theft, yes, sir.  
 10 Q Right. And then in a homeowner's claim, he  
 11 asked State Farm to pay for the loss of contents of the  
 12 Corvette when it was stolen?  
 13 A When you say "of the Corvette," he asked for  
 14 contents within the Corvette.  
 15 Q Okay. That's a better preposition?  
 16 A You say "of." I didn't know if you meant --  
 17 Q Okay.  
 18 A -- contents as part of the Corvette or --  
 19 Q No. That's a good point. He was asking for  
 20 State Farm to pay for any personal property contents  
 21 that he had in the Corvette when it was stolen that  
 22 were not in there when it was recovered?  
 23 MR. NEWMAN: Object to the form of the  
 24 question.  
 25 Q (By Mr. Burge) Is that right?

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1 A Contents that he -- he asked us to pay for  
 2 contents that he claimed were in the vehicle.  
 3 Q Right.  
 4 A At the time of the alleged theft, yes, sir.  
 5 Q Right. And he made that under the  
 6 homeowner's policy?  
 7 A Yes, sir.  
 8 Q And you handled all those three claims?  
 9 A Yes, sir.  
 10 Q And you handled them under this special  
 11 investigations unit?  
 12 A I was in the special investigative unit at  
 13 the time, yes, sir.  
 14 Q Explain to me what the special investigation  
 15 unit is and how it is different than just the regular  
 16 claim department.  
 17 A Well, I handle claims just like the regular  
 18 claim department. My title is claim representative,  
 19 just like -- the one major difference is that we -- we  
 20 go out and try to put the public on notice of insurance  
 21 fraud. We do presentations, which I've done to the  
 22 public, and put them on notice. We assist our other  
 23 internal customers, which would be other fellow claim  
 24 reps. We assist them in recognition of -- of  
 25 indicators and claims that may warrant further

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1 investigation. We -- I would say in SIU, when we get a  
 2 claim, we have the opportunity to more thoroughly  
 3 evaluate the claim as far as we -- we don't have the  
 4 volume of other claim reps, so we have more opportunity  
 5 to investigate the claim.  
 6 Q Is there any other difference?  
 7 A Not that I can -- no, sir.  
 8 Q Do you know whether more claims that are  
 9 handled by the SIU on a percentage basis are denied for  
 10 fraud reasons than claims that are handled by the  
 11 regular claim department?  
 12 A I'm not sure because I'm not sure what claims  
 13 are denied by the regular line unit.  
 14 Q Okay. What percentage of claims do you deny?  
 15 A I don't have a percentage, but I can tell you  
 16 I pay -- the large majority of all the claims I'm  
 17 involved in, I pay.  
 18 Q More than 90 percent?  
 19 A I would say that's accurate.  
 20 Q The compensation that you receive as a claims  
 21 representative in the SIU unit, is that more than you  
 22 were receiving when you were just in the regular claim  
 23 department?  
 24 MR. NEWMAN: Object to the form of the  
 25 question, unless you factor in time and

10 (Pages 37 to 40)

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<p style="text-align: right;">Page 41</p> <p>1 grade, and that type of thing.</p> <p>2 Go ahead and answer it, if you can.</p> <p>3 THE WITNESS: Yes, sir, because I've</p> <p>4 received periodic raises throughout there.</p> <p>5 And it's my understanding that I would have</p> <p>6 received those whether I was in a line unit</p> <p>7 or in SIU on the same scale. I'm still</p> <p>8 within the same pay scale as the regular</p> <p>9 claim reps.</p> <p>10 Q (By Mr. Burge) The people that you started</p> <p>11 with in January of 1990, assuming all things equal,</p> <p>12 except for the fact that you're in the SIU and let's</p> <p>13 say they've never done any SIU work, would be earning</p> <p>14 the same thing, is your understanding; is that right?</p> <p>15 A Yes, sir.</p> <p>16 Q Do you receive supervisor evaluations from</p> <p>17 time to time that affect your pay grade or bonuses?</p> <p>18 A Yes, sir.</p> <p>19 Q Are you evaluated based on the number of</p> <p>20 claims that you handled?</p> <p>21 A I'm going to say no. No.</p> <p>22 Q Are you evaluated on the speed with which you</p> <p>23 handle claims?</p> <p>24 A No, sir.</p> <p>25 Q Are you evaluated on how well you document</p>	<p style="text-align: right;">Page 43</p> <p>1 in the SIU unit is to educate other State Farm claims</p> <p>2 representatives about fraud indicators.</p> <p>3 A Yes, sir.</p> <p>4 Q Would you list for me the fraud indicators</p> <p>5 that you educate them about?</p> <p>6 A I can't list them all. I can give you some</p> <p>7 examples that they --</p> <p>8 Q Well, if you can give me as many as you can</p> <p>9 think of.</p> <p>10 A P.O. box for an address, loss on new</p> <p>11 business, claims frequency, insured is experiencing</p> <p>12 financial problems, current marital problems, an</p> <p>13 insured vehicle is stolen, recovered within a short</p> <p>14 duration of time after theft allegedly occurred,</p> <p>15 insured vehicle is not compatible with the insured's</p> <p>16 income, insured vehicle has a history of salvage,</p> <p>17 meaning it's rendered as salvage prior to this.</p> <p>18 Q Explain that one, sorry.</p> <p>19 A Let's say the vehicle has been rendered as</p> <p>20 totaled before and then now it's a rebuilt salvage.</p> <p>21 Insured vehicle is stolen, recovered within a short</p> <p>22 duration of time, burned, loss occurs at night, there's</p> <p>23 no evidence of any forced entry or damage to the</p> <p>24 steering column or ignition. Insured goes to an</p> <p>25 agent's office as walk-in business, never had any other</p>
<p style="text-align: right;">Page 42</p> <p>1 your claim handling?</p> <p>2 A I would say yes because they do -- my boss</p> <p>3 does file reviews, so I assume he looks at what I'm</p> <p>4 documenting, but I can't answer. That's something you</p> <p>5 need to take up with Mr. Nix.</p> <p>6 Q Are you evaluated on whether you recommend to</p> <p>7 pay a claim or to deny a claim?</p> <p>8 A Never.</p> <p>9 Q Do you know what factors go into your</p> <p>10 bonuses?</p> <p>11 A We -- my boss and I sit down and we go over</p> <p>12 what's called an employee performance rating, correct.</p> <p>13 Q Do you know whether the SIU claims reps get</p> <p>14 higher bonuses or -- than people in the regular claim</p> <p>15 department?</p> <p>16 A I have no idea. I've never given any of my</p> <p>17 bonus information to anyone. And I've never asked</p> <p>18 anyone else.</p> <p>19 Q Have your bonuses been higher since you've</p> <p>20 been in the SIU unit than they were before?</p> <p>21 A I never got bonuses when I was in the line</p> <p>22 units because it's changed. At that time, we had cost</p> <p>23 of living adjustments. They've done away with that</p> <p>24 now.</p> <p>25 Q You mentioned that -- that part of your job</p>	<p style="text-align: right;">Page 44</p> <p>1 business there before. Insured claims expensive</p> <p>2 contents in their vehicle. Insured is aggressive or</p> <p>3 overly pushy for a quick settlement. Insured may have</p> <p>4 a large knowledge of insurance terminology that the</p> <p>5 normal person wouldn't have. Insured has a leased</p> <p>6 vehicle and he's over his mileage limitation. Insured</p> <p>7 has had a history of prior injuries. Insured's policy,</p> <p>8 he receives notice of cancellation just prior to filing</p> <p>9 his claim. Insured vehicle is an older vehicle with</p> <p>10 low mileage. Insured has had a history of mechanical</p> <p>11 problems.</p> <p>12 Q With his vehicle?</p> <p>13 A With his vehicle. Insured is unemployed.</p> <p>14 That's all I can recall at the time.</p> <p>15 Q Okay. We've been going for one hour. Each</p> <p>16 hour I will give you --</p> <p>17 MR. BURGE: -- or you when it's your</p> <p>18 turn --</p> <p>19 Q (By Mr. Burge) -- the opportunity, or your</p> <p>20 lawyer or the court reporter, anyone who wants to take</p> <p>21 a break.</p> <p>22 MR. BURGE: Does anyone want to take a</p> <p>23 break now?</p> <p>24 MR. NEWMAN: I do. Thank you.</p> <p>25 MR. BURGE: Okay.</p>



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<p style="text-align: right;">Page 45</p> <p>1 THE WITNESS: Thanks.</p> <p>2 (Whereupon, there was a brief recess.)</p> <p>3 Q (By Mr. Burge) Mr. Smith, these indicators</p> <p>4 that you've talked about, where did you get these</p> <p>5 indicators that you trained others about?</p> <p>6 A From the National Insurance Crime Bureau.</p> <p>7 Q Do you know where they get it from?</p> <p>8 A I have no idea.</p> <p>9 Q Is there a reason that a person using a post</p> <p>10 office box would draw suspicion that you know of?</p> <p>11 A The only thing I can think of is they just</p> <p>12 didn't want to give a -- an exact physical address for</p> <p>13 someone to track them down.</p> <p>14 Q Oh, okay.</p> <p>15 A I'm not sure.</p> <p>16 Q And a loss on new business; so if I buy a new</p> <p>17 car, is that new business even if I'm a long-time</p> <p>18 customer with State Farm?</p> <p>19 A If you add that policy, yes, sir.</p> <p>20 Q And if my car is stolen in the first month,</p> <p>21 that's a loss on new business?</p> <p>22 A Yes, sir.</p> <p>23 Q So that attracts suspicion under the</p> <p>24 indicators?</p> <p>25 A Actually, that would be -- that would show up</p>	<p style="text-align: right;">Page 47</p> <p>1 behind on other utility bills, could -- what -- what</p> <p>2 could be financial hardship on me may not be on another</p> <p>3 person, so I can't list all of them. I don't really</p> <p>4 know.</p> <p>5 Q So financial problems is going to vary from</p> <p>6 person to person. What qualifies?</p> <p>7 A Some people don't -- don't have financial</p> <p>8 problems. I'm sure you attorneys make a lot of money,</p> <p>9 you-all probably don't.</p> <p>10 Q It varies from person to person?</p> <p>11 A I would say yes, sir.</p> <p>12 Q And if a person is paid up on their mortgage,</p> <p>13 have their credit cards paid up to date, have their</p> <p>14 cars paid for yet are disabled and live on a fixed</p> <p>15 income, would that qualify potentially as financial</p> <p>16 problems under your definition?</p> <p>17 A Well, if they can't buy groceries and</p> <p>18 gasoline and pay their car insurance and other -- I</p> <p>19 mean, it just depends on what other bills they have. I</p> <p>20 can't really give you a definite answer on that.</p> <p>21 Q Okay. What qualifies as marital problems?</p> <p>22 A Separated or divorced.</p> <p>23 Q Okay. If it's amicable, the parties have</p> <p>24 agreed but the divorce is not final, would that still</p> <p>25 qualify under the State Farm definition of marital</p>
<p style="text-align: right;">Page 46</p> <p>1 under your coverages. It would give a policy inception</p> <p>2 date, and it would show loss on new business, policy</p> <p>3 inception date.</p> <p>4 Q It would kick it out and say this is</p> <p>5 suspicious under the computer?</p> <p>6 A No.</p> <p>7 MR. NEWMAN: Object to the form of the</p> <p>8 question.</p> <p>9 Q (By Mr. Burge) Okay. I must have</p> <p>10 misunderstood.</p> <p>11 A It will show -- when you -- when a claim is</p> <p>12 filed, and I look at the coverages on the claim, it</p> <p>13 will show, below the coverages, the policy inception</p> <p>14 date. And if it's loss on new business, it will show</p> <p>15 loss on new business.</p> <p>16 Q And if I've owned the car for six months, is</p> <p>17 it still a loss on new business?</p> <p>18 A I think it will still, at six months -- I'm</p> <p>19 not exactly sure, but I think it will still show you a</p> <p>20 loss on new business, but I'm not sure.</p> <p>21 Q What qualifies as financial problems?</p> <p>22 A I mean, if someone is behind on their</p> <p>23 payments of their vehicle or their mortgage or they've</p> <p>24 gone through -- they've had a history of a bankruptcy</p> <p>25 maybe or had liens filed against them or could be</p>	<p style="text-align: right;">Page 48</p> <p>1 problems?</p> <p>2 A Well, State Farm I don't think has a</p> <p>3 definition of marital problems. I think that comes</p> <p>4 from the National Insurance Crime Bureau. And to tell</p> <p>5 you the truth, I've never really had marital problems,</p> <p>6 so I don't really know.</p> <p>7 Q So you don't know how the marital problem</p> <p>8 indicator that you teach other State Farm claims reps,</p> <p>9 what the boundaries of it are?</p> <p>10 A It's just a recognition if they're going</p> <p>11 through a divorce or separation.</p> <p>12 Q But you recognize, of course, that some</p> <p>13 people going through divorce have agreed to all of the</p> <p>14 terms?</p> <p>15 A My parents are divorced.</p> <p>16 Q Okay. And -- and leave without really any</p> <p>17 animosity, that they agree to the terms and they go</p> <p>18 forward?</p> <p>19 A Like I said, I've never been through a</p> <p>20 divorce, so I'm not really sure. I know my -- my --</p> <p>21 that was not the case when my parents divorced.</p> <p>22 Q When you say it's an indicator of fraud or</p> <p>23 suspicion when a vehicle is recovered quickly, how</p> <p>24 quickly does a vehicle need to be recovered to fall</p> <p>25 within that indicator?</p>

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1 A It just says within a short duration of time.  
 2 It does not give you any specifics.  
 3 Q A vehicle not compatible with a person's  
 4 income; would that be like a person who makes \$30,000 a  
 5 year driving a hundred-thousand-dollar car?  
 6 A That's probably safe to say. It could be a  
 7 person of my income trying to buy that same car.  
 8 Q What about the -- what if the car is paid  
 9 off, it's paid for; does it still fall within that  
 10 indicator?  
 11 A See, it doesn't give you specifics on the  
 12 indicators right there, so I can't really answer that.  
 13 Q With your criminal investigations background,  
 14 did you learn whether most crimes occur during the day  
 15 or whether most crimes occur at night?  
 16 A They weren't very specific that I would --  
 17 just from common-sense-wise, I would tell you I would  
 18 think most occur at night.  
 19 Q What are the insurance terms that a person  
 20 has knowledge of that you wouldn't expect an ordinary,  
 21 you know, adult to know?  
 22 A Well, if someone has been involved in a -- a  
 23 prior claim, and let's say they -- they advise you up  
 24 front that, hey, I know you're going to send me a -- an  
 25 affidavit, let's say, for me to complete; and that

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1 might draw your attention to, well, I hadn't even got  
 2 to that point with you, for example. Or some people  
 3 are -- are very knowledgeable about the -- the  
 4 provisions of their policy that, let's face it, most  
 5 people don't memorize their policy.  
 6 Q You say when a person is unemployed, that's  
 7 one of the indicators?  
 8 A Yes, sir.  
 9 Q What if a person is disabled, they're not  
 10 working, they're disabled from working due to a  
 11 military disability, due to an -- an on-the-job injury  
 12 that resulted in disability, or a combination?  
 13 A That indicator doesn't distinguish that. It  
 14 just says unemployed.  
 15 Q Okay. So is it fair to say that you teach  
 16 other State Farm employees about these indicators to  
 17 let them know when claims should be referred to SIU,  
 18 but you didn't write these indicators?  
 19 MR. NEWMAN: Object to the form of the  
 20 question.  
 21 THE WITNESS: I disagree with that.  
 22 I -- I tell them just to -- where to find  
 23 these indicators, through NICB; and that just  
 24 because a claim has indicators present  
 25 doesn't mean that it's one that needs to be

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1 referred to SIU. It could mean that this  
 2 claim just needs to be looked at a little  
 3 closer.  
 4 Q (By Mr. Burge) Are these indicators  
 5 sometimes referred to in your industry as red flags?  
 6 A Used to be, my knowledge.  
 7 Q In 2005, were they being referred to at State  
 8 Farm as red flags?  
 9 A I think our agents, some of our agents still  
 10 may use that terminology, but I try not to use that.  
 11 (WHEREUPON, Exhibit No. 5 was marked for  
 12 identification.)  
 13 Q (By Mr. Burge) Okay. Let me show you what's  
 14 marked as Exhibit 5. Have you seen that document  
 15 before?  
 16 A Yes, I've seen this.  
 17 Q And that is where SIU is first being -- or  
 18 the red flags or indicators are first mentioned related  
 19 to any of Martin Long's claims, true?  
 20 MR. NEWMAN: Do you have a claim file  
 21 here? I mean, if you --  
 22 THE WITNESS: I would have to look at  
 23 the claim file, if you don't mind.  
 24 MR. NEWMAN: If you're going to ask him  
 25 was that the first time, it may -- I don't

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1 mind, Tucker, if you want to ask him is that  
 2 a time in which it was, you know, but the  
 3 first time is -- is hard for him --  
 4 THE WITNESS: I mean, I can't say if  
 5 this is the first time. This appears to be  
 6 an email, but it clearly says there are red  
 7 flags on this one.  
 8 Q (By Mr. Burge) And one of the red flags it  
 9 says is this is new business?  
 10 A It says loss on new business.  
 11 Q And they mention that Mr. Long wanted to  
 12 secure insurance on the car either right before or  
 13 right after he purchased it?  
 14 A It says agent staff person advised the  
 15 insured wanted to secure insurance in haste.  
 16 Q Is it reasonable, based on your experience in  
 17 the insurance industry, to want to have insurance on  
 18 the car right as soon as they buy it?  
 19 A I would say they better.  
 20 Q Another red flag is that he parked in view of  
 21 security cameras at the hotel where his car was stolen?  
 22 A I don't think that that's an indicator I have  
 23 ever seen that I can recall, but I can -- apparently  
 24 that was a question they had.  
 25 Q It was what they listed as a red flag, but

13 (Pages 49 to 52)

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<p style="text-align: right;">Page 53</p> <p>1 it's not something that you taught; right?</p> <p>2 A Something I've what?</p> <p>3 Q You've taught others as indicators.</p> <p>4 A That's not a specific indicator that I can</p> <p>5 recall that NICB produces.</p> <p>6 Q Is it reasonable to park a car in view of a</p> <p>7 security camera?</p> <p>8 A Some people may choose to do that, some</p> <p>9 people may choose not to. I'm not...</p> <p>10 Q It's certainly not unreasonable to park in</p> <p>11 view of a security camera, is it?</p> <p>12 A No. You go to certain businesses, they have</p> <p>13 them throughout their parking lot, so you can't avoid</p> <p>14 it.</p> <p>15 Q But cars can be stolen despite security</p> <p>16 cameras?</p> <p>17 A I would say yes, sir.</p> <p>18 Q Later on in the document, you-all -- you talk</p> <p>19 to Ram, the manager at the Country Hearth Inn. And he</p> <p>20 told you that despite security cameras at the Wal-Mart,</p> <p>21 cars were being stolen from there, which is right</p> <p>22 across the street from where this hotel was?</p> <p>23 A I would need to look at that -- that</p> <p>24 statement.</p> <p>25 Q Okay. We'll do it.</p>	<p style="text-align: right;">Page 55</p> <p>1 recommendation made that all three claims be assigned</p> <p>2 to SIU?</p> <p>3 A Yes, it looks like we received a -- a</p> <p>4 recommendation.</p> <p>5 Q And you have seen that recommendation which</p> <p>6 is Exhibit 6 before, true?</p> <p>7 A Yes, I have.</p> <p>8 (WHEREUPON, Exhibit No. 7 was marked for</p> <p>9 identification.)</p> <p>10 Q (By Mr. Burge) And have you seen Exhibit 7</p> <p>11 before?</p> <p>12 A Yes, I have.</p> <p>13 Q And that's the document in which all three</p> <p>14 claims were formally assigned to SIU?</p> <p>15 A Yes.</p> <p>16 Q And you were designated as the person who</p> <p>17 would be handling the claims?</p> <p>18 A Yes.</p> <p>19 Q And each of those claims has a different</p> <p>20 claim number?</p> <p>21 A That's correct.</p> <p>22 Q And that just tells you that -- that I'm</p> <p>23 dealing with three separate claims, right?</p> <p>24 A Three separate policies.</p> <p>25 Q Right. And you know that there are claims</p>
<p style="text-align: right;">Page 54</p> <p>1 A Okay. Thank you.</p> <p>2 Q Another red flag indicated on there is that</p> <p>3 no police report was filed?</p> <p>4 A Correct.</p> <p>5 Q Is that true, that no police report was</p> <p>6 filed?</p> <p>7 A No, that is not correct.</p> <p>8 Q Okay. And the last indicator is that he's</p> <p>9 going through a divorce?</p> <p>10 A Correct.</p> <p>11 Q What is the date of that email?</p> <p>12 A Let's see. It looks like Tuesday, February</p> <p>13 22nd, 2005.</p> <p>14 Q And what is the time of it?</p> <p>15 A About 9:40 a.m.</p> <p>16 (WHEREUPON, Exhibit No. 6 was marked for</p> <p>17 identification.)</p> <p>18 Q (By Mr. Burge) By 3 o'clock that afternoon,</p> <p>19 showing you Exhibit 6, were all of the --</p> <p>20 A Can I see that one more time, please, sir?</p> <p>21 Q (Indicating).</p> <p>22 A Can I keep that for a second and look at it?</p> <p>23 Q Sure.</p> <p>24 A Okay, I'm sorry.</p> <p>25 Q By 3 o'clock that same afternoon, was a</p>	<p style="text-align: right;">Page 56</p> <p>1 made under three separate policies, right?</p> <p>2 A There are claims made under three separate</p> <p>3 policies, yes, sir.</p> <p>4 Q And you know from the first page of your</p> <p>5 claim manual and your policies at State Farm that each</p> <p>6 claim will be decided on its own merits, true?</p> <p>7 A Each loss, correct.</p> <p>8 Q Okay. And that would be the -- the first</p> <p>9 loss would be the February 13th, 2005 loss relating to</p> <p>10 the property damage to the Mustang, right,</p> <p>11 chronologically?</p> <p>12 A I believe with -- without looking at the</p> <p>13 claim, I believe that is the --</p> <p>14 Q Okay.</p> <p>15 A -- correct for the Mustang.</p> <p>16 Q And then there is the claim for the theft of</p> <p>17 the Corvette under the automobile policy, correct?</p> <p>18 MR. NEWMAN: What's the question?</p> <p>19 MR. BURGE: That's the second.</p> <p>20 MR. NEWMAN: That a claim was made</p> <p>21 on --</p> <p>22 MR. BURGE: Right.</p> <p>23 MR. NEWMAN: A claim was made on the</p> <p>24 automobile policy?</p> <p>25 MR. BURGE: Right.</p>

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<p style="text-align: right;">Page 57</p> <p>1 THE WITNESS: There was a claim made on</p> <p>2 the automobile policy, correct.</p> <p>3 Q (By Mr. Burge) Okay. For the theft of the</p> <p>4 car?</p> <p>5 A Correct.</p> <p>6 Q And then there was a claim made for the</p> <p>7 personal property inside the car at the time of the</p> <p>8 theft of the Corvette under the homeowner's policy,</p> <p>9 right?</p> <p>10 A Correct. There was a -- a claim made for</p> <p>11 contents stolen in connection with the alleged theft of</p> <p>12 the Corvette.</p> <p>13 Q And those are the three claims that were sent</p> <p>14 to you to be handled?</p> <p>15 A Correct.</p> <p>16 Q Now, are you handling all of these claims</p> <p>17 sort of simultaneously at one point?</p> <p>18 A You're talking about in the same time of year</p> <p>19 and month and everything, yes, sir.</p> <p>20 Q Okay. What I want to do is, is to break them</p> <p>21 out, okay? And I think the easiest way to do it for me</p> <p>22 is chronologically. Is that okay with you?</p> <p>23 A That's fine. You're asking the questions.</p> <p>24 Q Okay. I'll take those and put them back in</p> <p>25 order, so we'll be able to look...</p>	<p style="text-align: right;">Page 59</p> <p>1 Q Under "reasons for referring," what does it</p> <p>2 say?</p> <p>3 A "Insured is unemployed and claim history."</p> <p>4 Q Did you understand that ultimately that</p> <p>5 Mr. Long is disabled from working?</p> <p>6 A Yes.</p> <p>7 Q But there's no distinction made between</p> <p>8 disabled and unemployed, I believe you said?</p> <p>9 A Not that I can recall.</p> <p>10 Q When you get a claim in at State Farm, is</p> <p>11 there a service record that needs to be generated?</p> <p>12 A Yes, an auto claim service record will be</p> <p>13 generated.</p> <p>14 Q Is that where all the activity on the file is</p> <p>15 supposed to be recorded?</p> <p>16 A A summary of the activity, yes, sir.</p> <p>17 Q And that's done in each and every file?</p> <p>18 A Yes, sir.</p> <p>19 Q And if something was done on a claim, there</p> <p>20 should be some reference to it in the auto claim</p> <p>21 service record?</p> <p>22 MR. NEWMAN: Object to the form of the</p> <p>23 question.</p> <p>24 THE WITNESS: I disagree with that.</p> <p>25 Q (By Mr. Burge) Okay. Why do you disagree</p>
<p style="text-align: right;">Page 58</p> <p>1 (WHEREUPON, Exhibit No. 8 was marked for</p> <p>2 identification.)</p> <p>3 Q (By Mr. Burge) When a claim is referred to</p> <p>4 SIU, is there generally a claim referral document of</p> <p>5 some kind? And let me show you Exhibit 8.</p> <p>6 A The majority of the time, from my experience,</p> <p>7 we do get an auto fire claim referral to SIU, correct.</p> <p>8 Q And does that document generally tell you the</p> <p>9 reason why that claim is being referred to SIU?</p> <p>10 A My experience, these -- these documents, a</p> <p>11 majority of the time will list questions or factors</p> <p>12 involved.</p> <p>13 Q Now, Exhibit 8 relates to the loss of</p> <p>14 2/13/05, which is claim number 01-6596-758, correct?</p> <p>15 A That is a correct claim number and a date of</p> <p>16 loss of 2/13/05 per this referral.</p> <p>17 Q And what was the reason given for referring</p> <p>18 that claim to SIU?</p> <p>19 A You want me to read the brief facts?</p> <p>20 Q Just what you understand the reason to be</p> <p>21 that that one was referred to SIU.</p> <p>22 A It looks like the insured was involved in</p> <p>23 a -- a gun fight. And in addition, it says "insured is</p> <p>24 unemployed and based on the claim history." May I see</p> <p>25 that just for a moment, please.</p>	<p style="text-align: right;">Page 60</p> <p>1 with that? Are there things that State Farm does that</p> <p>2 are documented?</p> <p>3 A There are things that I do and I think all</p> <p>4 claim reps do. I think a lot about claims. I use my</p> <p>5 thought process on thinking about what took place on</p> <p>6 this claim, and I -- and I look at the facts and</p> <p>7 indicators. And I can't put down my every thought</p> <p>8 process, and I don't in a claim.</p> <p>9 Q In terms of actions, not thoughts, but</p> <p>10 actions by a claims representative, such as attempting</p> <p>11 to contact an individual or speaking to an individual</p> <p>12 or taking a statement from an individual or canceling a</p> <p>13 policy or refunding premiums or anything that might be</p> <p>14 done like that, an actual action, is that documented in</p> <p>15 the service record?</p> <p>16 A Most of the time, yes, sir.</p> <p>17 Q Based on your training, is it supposed to be</p> <p>18 documented?</p> <p>19 A Based on my training, the activity log is</p> <p>20 used for a summary of -- of what you -- you're doing in</p> <p>21 the claim.</p> <p>22 Q And are you trained that when you do</p> <p>23 something on a claim, you're supposed to log it in?</p> <p>24 A Getting back -- once again, if I'm looking at</p> <p>25 a scenario, I'm not required to put that in a claim</p>



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<p style="text-align: right;">Page 61</p> <p>1 file. If I'm evaluating a claim in my mind, I'm not  2 going to put that in a claim file.  3 Q But --  4 A But from your question as far as actions go,  5 I would say the majority of the time, yes, sir.  6 Q Okay. And how do you know to put your  7 actions in the service record? Is that based on your  8 training?  9 A Based on prior claim handling experience.  10 Q And it's so people who come behind you and  11 want to look at this claim will know what was done?  12 A That's safe to say, yes, sir.  13 (WHEREUPON, Exhibit No. 9 was marked for  14 identification.)  15 Q (By Mr. Burge) Is Exhibit 9 a copy of the  16 claim service record for the gunshot damage to the  17 Mustang?  18 A Can I look at it?  19 Q Sure.  20 A Yes, sir, this is the auto claim service  21 record for the Mustang.  22 Q And it shows what you did and what conclusion  23 you ultimately reached?  24 A Yes, sir.  25 Q As part of the process of handling a claim</p>	<p style="text-align: right;">Page 63</p> <p>1 Q And on the first page, does it show Martin  2 Long as the victim?  3 A Yes, sir.  4 Q What is a property loss preliminary report?  5 A It is a report that I would -- I would  6 normally complete within a 10 to 15-day period that I  7 send to my team manager.  8 (WHEREUPON, Exhibit No. 13 was marked for  9 identification.)  10 Q (By Mr. Burge) And is Exhibit 13 a copy of  11 the preliminary report you did for this claim relating  12 to the Mustang?  13 A Yes, sir.  14 Q Did you recommend that that claim be paid?  15 A This claim was paid prior to my involvement,  16 a draft was issued.  17 Q And a draft was stopped, correct?  18 A Correct.  19 (WHEREUPON, Exhibit No. 14 was marked for  20 identification.)  21 Q (By Mr. Burge) And then you authorized  22 payment as shown by Exhibit 14, true?  23 A True, yes, sir.  24 Q So you authorized the payment of this claim?  25 A Well, the payment was authorized prior to my</p>
<p style="text-align: right;">Page 62</p> <p>1 like this, do you try to document the damage to the  2 vehicle both by getting a repair estimate or appraisal  3 and by getting photographs of the damage?  4 A It looks like the repair estimate and the  5 photos were secured prior to my involvement.  6 Q Okay. And that's just normal claims  7 handling?  8 A Evaluating the claim?  9 Q Right.  10 A Yes, sir.  11 (WHEREUPON, Exhibit No. 10 and Exhibit No. 11 were  12 marked for identification.)  13 Q (By Mr. Burge) And 10 and 11 show the damage  14 report and the photographs?  15 A Yes, sir.  16 Q Do you secure police records when they're  17 available?  18 A Yes, sir.  19 (WHEREUPON, Exhibit No. 12 was marked for  20 identification.)  21 Q (By Mr. Burge) Is Exhibit 12 a -- a copy of  22 the incident report relating to that shooting that was  23 secured for that file by State Farm?  24 A Yes, sir, this appears to be the police  25 report.</p>	<p style="text-align: right;">Page 64</p> <p>1 involvement, and Mr. Long indicated he had never  2 received his payment; so as a result, when I met with  3 Mr. Long, I -- I stop payment at that moment and  4 reissued him another draft.  5 Q Are you saying that you made no determination  6 regarding whether or not this claim was due to be paid?  7 A I felt like looking at the claim that it was  8 a claim that should have been paid.  9 Q Despite the fact that he was unemployed?  10 A Despite the fact that he was unemployed, yes,  11 sir.  12 Q Despite the fact that he had made other  13 claims relating to vehicle theft on 2/19/05?  14 MR. NEWMAN: Object to the form of the  15 question.  16 THE WITNESS: Repeat that question, I'm  17 sorry.  18 Q (By Mr. Burge) You recommended that it be  19 paid and thought it was a claim that should be paid  20 despite the fact that he was not employed or the fact  21 that he had other claims that same month?  22 MR. NEWMAN: Same objection.  23 THE WITNESS: I saw nothing to warrant  24 me not issuing a -- or reissuing a draft that  25 had already been issued anyway.</p>

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1 Q (By Mr. Burge) Because you thought it was a  
 2 claim that needed to be paid?  
 3 A I saw nothing to warrant me reissuing another  
 4 draft to him, correct, yes, sir.  
 5 MR. NEWMAN: You mean not reissuing  
 6 another draft, don't you?  
 7 THE WITNESS: I saw nothing warranting  
 8 me not reissuing another draft.  
 9 Q (By Mr. Burge) You felt like that was the  
 10 appropriate thing to do --  
 11 A Yes.  
 12 Q -- based on the facts?  
 13 A Yes, sir.  
 14 Q Turning to the theft of the Corvette, is one  
 15 of the things that you had to do to determine whether  
 16 he even had insurance on the Corvette?  
 17 A What's your question?  
 18 Q Is one of the things that you had to do, as  
 19 part of your investigation of the theft of the Corvette  
 20 and the claim that he was making under the automobile  
 21 policy for the theft of the Corvette, is to determine  
 22 whether he actually had a policy that was in effect?  
 23 A Correct, I -- I looked to see if he had  
 24 coverage in effect.  
 25 (WHEREUPON, Exhibit No. 15 was marked for

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1 A I'm not an agent, so I don't handle securing  
 2 premiums. I'm not -- I can only give you what's on  
 3 this dec page, if that's --  
 4 Q Okay.  
 5 A If that's okay with you.  
 6 Q That's fine.  
 7 A Because I'm not an agent. I don't -- and  
 8 this says "this is not a bill" on this, so I don't know  
 9 for sure, but this says total premium for this policy  
 10 period February 4th, 2005 to August 4th, 2005, \$637.32.  
 11 Q And did you determine that he had  
 12 comprehensive coverage?  
 13 A Yes.  
 14 Q And that's the coverage that would apply to  
 15 the value of a vehicle that is stolen?  
 16 A Comprehensive coverage is available for  
 17 theft, yes.  
 18 Q Okay. Now, what a person has to pay can be  
 19 affected by a number of things, true?  
 20 A That's my understanding, yes, sir.  
 21 (WHEREUPON, Exhibit No. 16 was marked for  
 22 identification.)  
 23 Q (By Mr. Burge) Okay. And, in fact, on State  
 24 Farm's Web site you can see on Plaintiff's Exhibit 16,  
 25 is that something that State Farm advertises to the

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1 identification.)  
 2 Q (By Mr. Burge) And do you recognize Exhibit  
 3 15 as being a copy of the declarations page that you  
 4 obtained?  
 5 A Do you have the auto claim service record I  
 6 could look at?  
 7 Q We'll get to that. Did you not have a copy  
 8 of the dec page?  
 9 A What I'd like to do is make sure it coincides  
 10 with the policy number on that claim, if you don't  
 11 mind.  
 12 (WHEREUPON, Exhibit No. 19 was marked for  
 13 identification.)  
 14 Q (By Mr. Burge) Let me show you Exhibit 19.  
 15 Is that the auto service claim record?  
 16 A Yes, sir, that's the auto claim service  
 17 record. And this declaration page appears to coincide  
 18 with the vehicle, the VIN number is the same, the  
 19 policy number appears to be the same.  
 20 Q So you determined, during your investigation,  
 21 that he did have a policy in effect for the Corvette,  
 22 true?  
 23 A Yes.  
 24 Q And how much did he pay for that insurance  
 25 coverage for his Corvette?

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1 public as being various factors that can affect your  
 2 insurance premiums?  
 3 A Yes, sir.  
 4 Q In handling this claim, did you have to be  
 5 familiar with the policy language that was in the  
 6 automobile policy that was sold by State Farm to  
 7 Mr. Long?  
 8 A Yes, sir.  
 9 (WHEREUPON, Exhibit No. 17 was marked for  
 10 identification.)  
 11 Q (By Mr. Burge) Is Exhibit 17 a copy of that  
 12 policy? And I'll tell you it has been produced by  
 13 State Farm to me as being a copy of the policy.  
 14 A Yes, sir, this appears to be a State Farm  
 15 Fire & Casualty policy.  
 16 Q The type that was issued to this --  
 17 A Car.  
 18 Q To --  
 19 A It's a fire and casualty policy for the car.  
 20 It's an auto policy. It's form 9901.6 that -- and that  
 21 coincides with the fact that he has State Farm Fire &  
 22 Casualty.  
 23 Q And just like with the Mustang claim, in this  
 24 one, there was an auto fire claim referral to SIU,  
 25 true?

17 (Pages 65 to 68)

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<p style="text-align: right;">Page 69</p> <p>1 A Yes, sir.</p> <p>2 (WHEREUPON, Exhibit No. 18 was marked for</p> <p>3 identification.)</p> <p>4 Q (By Mr. Burge) And Exhibit 18 is a copy of</p> <p>5 that referral?</p> <p>6 A Is that a question?</p> <p>7 Q Yeah. That's true, isn't it?</p> <p>8 A Yes.</p> <p>9 Q When you got this claim, you paid a visit to</p> <p>10 the hotel?</p> <p>11 A Yes, sir.</p> <p>12 Q Did you see cameras on the outside of the</p> <p>13 building?</p> <p>14 A Yes, sir.</p> <p>15 Q Are there cameras that show the parking lot?</p> <p>16 A I did not see the actual camera itself, what</p> <p>17 it viewed, so I can't say if it showed the parking lot.</p> <p>18 Q Are there cameras that appear to show the</p> <p>19 parking lot?</p> <p>20 A There's cameras outside of the hotel.</p> <p>21 Q Okay.</p> <p>22 A I don't know the area that it's showing.</p> <p>23 Q Okay. Do you see where the blue tag is?</p> <p>24 A Yes, sir.</p> <p>25 Q And it mentions that when the claim was</p>	<p style="text-align: right;">Page 71</p> <p>1 12-month period before this incident with the Corvette</p> <p>2 occurred?</p> <p>3 A No, sir.</p> <p>4 Q Did you do a property loss preliminary report</p> <p>5 relating to the auto claim for the theft of the</p> <p>6 Corvette?</p> <p>7 A Yes.</p> <p>8 (WHEREUPON, Exhibit No. 20 was marked for</p> <p>9 identification.)</p> <p>10 Q (By Mr. Burge) And is Exhibit 20 a copy of</p> <p>11 that report?</p> <p>12 A Yes, sir.</p> <p>13 Q When the car was recovered, did you have an</p> <p>14 opportunity to examine the car?</p> <p>15 A Yes, sir. Excuse me. Yes, sir.</p> <p>16 Q And on Exhibit 19, the service claim file,</p> <p>17 did you note damage to the car in your notation of</p> <p>18 March 1st?</p> <p>19 A Yes, sir.</p> <p>20 Q And what did you note?</p> <p>21 A The T-tops and the seats were missing, the</p> <p>22 front center caps were missing, along with numerous lug</p> <p>23 nuts, the ignition cylinder and column were damaged,</p> <p>24 the vehicle had been rained in very heavily during the</p> <p>25 past weekend.</p>
<p style="text-align: right;">Page 70</p> <p>1 referred to SIU, hotel manager Ram had told State Farm</p> <p>2 representatives that cars had been stolen from the</p> <p>3 Wal-Mart across the street. Do you see that?</p> <p>4 A It says, "Ram has a friend who works at the</p> <p>5 Wal-Mart across the street. His friend told him even</p> <p>6 with 24/7 security, they continue to have cars stolen</p> <p>7 from their parking lot."</p> <p>8 Q Did you do any investigation to determine how</p> <p>9 many cars had been stolen from the Wal-Mart parking lot</p> <p>10 during the time frame while you were investigating this</p> <p>11 claim?</p> <p>12 A I spoke with a - if I recall correctly, I</p> <p>13 spoke with a detective with DeKalb County in their auto</p> <p>14 theft unit and inquired about thefts in the area.</p> <p>15 Q And is there any record of that conversation</p> <p>16 in Exhibit 19, the auto claim service record?</p> <p>17 A On February 28th, 2005, I spoke with a</p> <p>18 detective Fitzpatrick with the DeKalb County PD.</p> <p>19 Q Okay. Do you mention any conversation that</p> <p>20 you had with him concerning auto theft in that area</p> <p>21 during the early part of 2005?</p> <p>22 A No, sir, this log does not reflect that</p> <p>23 conversation.</p> <p>24 Q Did you get any information about the</p> <p>25 statistics of auto thefts in DeKalb County for the</p>	<p style="text-align: right;">Page 72</p> <p>1 Q When you discovered -</p> <p>2 A And, excuse me, I'm sorry. And there was no</p> <p>3 tag on the vehicle.</p> <p>4 Q When you discovered -</p> <p>5 MR. NEWMAN: Did you leave something</p> <p>6 out? If you're reading it, you didn't read</p> <p>7 this.</p> <p>8 THE WITNESS: I'm sorry, "the exterior</p> <p>9 of the insured vehicle and the engine</p> <p>10 appeared to be okay. There was no tag on the</p> <p>11 vehicle."</p> <p>12 Q (By Mr. Burge) When you find damage like</p> <p>13 that, do you generally report it to the insured?</p> <p>14 A Do I usually tell the insured the condition</p> <p>15 of the vehicle?</p> <p>16 Q Yeah, say, "We found your vehicle and I've</p> <p>17 looked at it and this is what I saw"?</p> <p>18 A Yes, sir.</p> <p>19 Q And do you usually do that promptly?</p> <p>20 A Yes, sir.</p> <p>21 Q Do you recall if you did that promptly on</p> <p>22 this occasion?</p> <p>23 A Yes, sir.</p> <p>24 (Whereupon, there was a brief recess.)</p> <p>25 Q (By Mr. Burge) When did you tell Mr. Long</p>

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1 about the -- what you saw in the car and the damage to  
 2 the car?  
 3 A Shortly after the -- the inspection of the  
 4 vehicle.  
 5 Q So you called him later that day?  
 6 A No, sir. I called him within the hour.  
 7 Q Okay. On March 1st?  
 8 A March 1st, yes, sir.  
 9 Q Do you have some insureds whose claims you've  
 10 adjusted in the past who didn't want a car back that  
 11 had been badly damaged?  
 12 A Yes, sir.  
 13 Q Is that a rare thing?  
 14 A I would say yes, sir, most people want their  
 15 vehicle back.  
 16 Q Even -- even when they learn that it has been  
 17 severely damaged?  
 18 A I guess we'd have to get into a definition of  
 19 what severely damaged is.  
 20 Q But there are -- Mr. Long was not the first  
 21 person that you ever dealt with who did not want to  
 22 have a car back that had been damaged in the way that  
 23 you described to him on March 1st?  
 24 A I can't give you the -- an answer directly to  
 25 that because you say in the way that it's damaged, and

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1 A I've handled a large number of vehicles that  
 2 have been damaged by weather. When I was on the  
 3 catastrophe team, I handled flood claims, and these  
 4 vehicles were totally submerged in water, so, yes, sir.  
 5 Q Have you handled a number of claims in  
 6 Atlanta where cars have been stolen and recovered in a  
 7 state where they were stripped?  
 8 A Once again, I can't recall specifics of  
 9 claims; but, yes, I have handled some claims where they  
 10 involved the vehicle being recovered and -- and  
 11 stripped.  
 12 Q Here in the Atlanta metropolitan area?  
 13 A Yes, sir. I can't recall specifically, but I  
 14 would say that's fair to say.  
 15 Q On your preliminary report, you note some  
 16 reasons why the claim was referred to SIU?  
 17 A Can I see that?  
 18 Yes, sir.  
 19 Q And the first one listed is that prior to the  
 20 claim, the insured recently filed a claim under number  
 21 01-6596-758, whereas he was involved in an exchange of  
 22 gun fire with another person?  
 23 A Yes, sir.  
 24 Q And that's the claim we just talked about  
 25 earlier?

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1 so the way I'm interpreting your question is you're  
 2 saying exact damages? I can't recall having a vehicle  
 3 recovered with the exact damage and having the exact  
 4 vehicle.  
 5 Q Have you had others in the past who did not  
 6 want a car back that had been severely damaged?  
 7 A I've -- I've had claims that I can recall in  
 8 the past where the vehicle was totally burned and there  
 9 was nothing left but a shell, which is -- no one wants  
 10 that.  
 11 Q Other than that?  
 12 MR. NEWMAN: Object to the form of the  
 13 question.  
 14 THE WITNESS: I can't recall specific  
 15 claims, but I would -- probably. I just -- I  
 16 can't recall.  
 17 Q (By Mr. Burge) You don't recall any other  
 18 claims, do you, where -- well, let me ask you this way:  
 19 Do you recall any claims where a car has been stripped  
 20 before?  
 21 A I don't recall specific claims; but, yes, I  
 22 have been involved with vehicles that have been  
 23 stripped, yes, sir.  
 24 Q And have you had cars that were stripped and  
 25 damaged by weather when they were recovered?

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1 A We did talk about a claim involving the  
 2 Mustang earlier.  
 3 Q Okay.  
 4 A Yes, sir.  
 5 Q And that was the one you took was due to be  
 6 paid and was paid?  
 7 A It was paid, yes, sir.  
 8 Q Number 2 is that the insured is unemployed.  
 9 And do you know whether he was unemployed at the time  
 10 this policy was sold to him?  
 11 A Can you repeat your question again, please,  
 12 sir.  
 13 Q Number 2, the second reason for it being  
 14 referred to SIU is that he is unemployed, right?  
 15 A That's what it says, yes, sir.  
 16 Q Was he unemployed when State Farm sold him  
 17 the automobile policy for his Corvette?  
 18 A I'm not sure.  
 19 Q Did you check to find out at any point during  
 20 your investigation?  
 21 A I questioned Mr. Long, if I recall correctly,  
 22 how long he had been unemployed. And if memory serves  
 23 me correctly, I would have to look at his recorded  
 24 statement; but if memory serves me correctly, it was  
 25 prior to the date of the policy issuance.

19 (Pages 73 to 76)



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<p style="text-align: right;">Page 77</p> <p>1 Q State Farm will sell insurance to unemployed  2 people, won't it?  3 A I hope so.  4 Q And they will sell insurance to disabled  5 people too, won't they?  6 A I hope so.  7 Q Number 3 relates to the homeowner claim, that  8 he made a claim under the homeowner's for expensive  9 items in the vehicle and that that claim was also  10 pending with you?  11 A Yes, sir.  12 Q Okay. We'll talk about that claim after a  13 bit. Number 4 relates to the high frequency of claims  14 recently.  15 What are the -- are we talking about the  16 Mustang claim, the theft of the car under the auto  17 policy and the theft of the contents under the  18 homeowner's policy?  19 A Correct.  20 Q Number 5 --  21 A Can I see that for a second?  22 Q Yeah.  23 A I just want to make sure and read it before  24 you said number 4 and I hand't had an opportunity to.  25 Okay.</p>	<p style="text-align: right;">Page 79</p> <p>1 vehicle to the police?  2 A Yes, sir.  3 Q Is that true; did that turn out to be true?  4 A Only from my recollection, only partially.  5 Q He reported the loss to the police that  6 morning?  7 A He --  8 Q Or the morning of the 19th?  9 A From what I recall, no, sir.  10 Q He did not report it to the police that  11 morning?  12 A No, sir.  13 Q When did he report it?  14 A From what I recall correctly, Mr. Long had a  15 friend report it for him to the police.  16 Q The loss was reported to the police that  17 morning?  18 A That morning, yes, sir.  19 Q Okay.  20 A A partial amount of the loss.  21 Q That being the stolen car?  22 A The stolen car was reported, yes, sir.  23 Q And that's what you were handling under the  24 auto claim policy?  25 A Can you be more specific? I'm sorry.</p>
<p style="text-align: right;">Page 78</p> <p>1 Q 5 talks about him being disabled from the  2 Army as a reason and having settled a recent  3 compensation claim against the railroad.  4 A Correct.  5 Q Is a disability one of the indicators or red  6 flags under the NICB?  7 A I can't recall if a military disability is.  8 Q Is an on-the-job disability in which a  9 compensation case has recently been resolved an  10 indicator?  11 A I think it -- being disabled -- or disability  12 and/or prior history of Worker's Comp. claims, I  13 believe they are, but I -- I'm not sure.  14 Q Okay. And number 6 is the loss of new  15 business. And you explained that earlier, that it was  16 recently purchased so it's new business?  17 A Yes, sir.  18 Q Okay. 7 is marital problems, and you told us  19 about that being an indicator before?  20 A Yes, sir.  21 Q The next one is is the inability to produce  22 all of the keys to the vehicle?  23 A Yes, sir.  24 Q And the last one is that claim central  25 indicated that there was a delay in reporting the</p>	<p style="text-align: right;">Page 80</p> <p>1 Q You were handling the stolen part of the  2 claim under the auto claim policy?  3 A Yes, sir.  4 Q Does it matter who dials the phone or speaks  5 to the police to State Farm when a car is stolen?  6 A I -- I would say no.  7 Can I add something to that?  8 Q You can add anything you want.  9 A What matters to me is who says they report  10 the vehicle stolen.  11 Q If I go outside to the parking lot and my car  12 is not there and I report it to my insurance company,  13 and I report it to the police; but in reporting it to  14 the police, I have someone, like the receptionist here,  15 this office complex where we are, say I'm going to call  16 the insurance company, I want you to call the police,  17 and then later I say that I -- I called the police and  18 it turns out I was wrong, would that be a reason to  19 deny the claim under your training?  20 A Well, there's a couple of factors. One is I  21 don't know, in your scenario, who you're insured with,  22 so I don't know their procedure.  23 Q If I say I'm insured by State Farm and you're  24 handling my claim, and I say I called the police and  25 you find out that someone other than me called the</p>

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1 police to report the theft, do you deny that claim  
 2 based on that?  
 3 A I question why you told me something  
 4 different.  
 5 Q You question it, but do you deny the claim on  
 6 that basis?  
 7 A I do not --  
 8 MR. NEWMAN: Object to the form of the  
 9 question. There are not enough facts  
 10 given.  
 11 Q (By Mr. Burge) Do you recommend that the  
 12 claim be denied on that basis, based on who called?  
 13 MR. NEWMAN: Same objection, not enough  
 14 facts.  
 15 Q (By Mr. Burge) You can answer.  
 16 A I look at the totality of the claim and the  
 17 facts and make my recommendation based on that.  
 18 Q Have you ever made a claim or a  
 19 recommendation that a claim be denied based solely on  
 20 who called the police?  
 21 A I can't recall specifics of other claims, so  
 22 I can't give you an exact answer on that.  
 23 Q You may have; you may not have. I just don't  
 24 know.  
 25 A I just don't recall.

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1 Q Eventually, there was a claim committee  
 2 report generated based on your recommendations and a  
 3 claim committee meeting and the recommendations of your  
 4 section manager?  
 5 A Let me -- can I look at that?  
 6 (WHEREUPON, Exhibit No. 21 was marked for  
 7 identification.)  
 8 Q (By Mr. Burge) Well, have you ever seen the  
 9 auto claim committee report, which is Exhibit 21? The  
 10 question is have you ever seen it?  
 11 A Can I look through it?  
 12 Q Sure.  
 13 A Okay. Thank you. Yes, sir. This is an auto  
 14 claim committee report.  
 15 Q The question is not whether it is; it's  
 16 whether you've ever seen that one, Exhibit 21.  
 17 A This one, yes, sir.  
 18 Q Okay. Was there something on the last page  
 19 that told you that you had seen it before?  
 20 A No. I wanted to make sure and -- that there  
 21 were no pages deleted, and I also wanted to make sure  
 22 that there wasn't something added that should not be in  
 23 there. That's why I reviewed the document.  
 24 Q And what you see under Exhibit 21 is a full  
 25 copy of what you have seen in the past on this claim?

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1 A Yes, sir, it appears to be.  
 2 Q And this was after you had done your entire  
 3 investigation; is that right?  
 4 A Yes, sir, as I can recall.  
 5 Q When did the Corvette leave the Country  
 6 Hearth Inn in Lithonia, Georgia's parking lot?  
 7 A I can't give you an answer to that, sir.  
 8 Q How many people were involved in taking the  
 9 car from the Country Hearth Inn parking lot?  
 10 A I can't give you an answer to that.  
 11 Q Can you tell me who specifically took the car  
 12 from the Country Hearth Inn parking lot?  
 13 A I can't tell you a specific person. The only  
 14 thing I can tell you is that whoever last drove that  
 15 car had a specific key to that car.  
 16 Q Can you tell us whether the car was driven  
 17 out of that parking lot or whether it was towed out of  
 18 the parking lot?  
 19 A I can tell you based on my investigation that  
 20 whoever last drove that car and removed it from the  
 21 parking lot had a key to it, and that is -- the facts  
 22 supporting the claim are not conducive with towing that  
 23 vehicle.  
 24 Q So is it your belief that the car had to have  
 25 been -- is the answer to my question that the car was

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1 driven out of the parking lot as opposed to being towed  
 2 out of the parking lot?  
 3 A That is, yes, sir.  
 4 Q Do you know which way the car turned?  
 5 A No, sir.  
 6 Q Do you know where it was stripped?  
 7 A No, sir.  
 8 Q Do you know when it was stripped?  
 9 A Let me back up a minute, if you don't mind --  
 10 Q Sure.  
 11 A -- when you say "stripped." I know parts  
 12 were we moved from that car.  
 13 Q Right.  
 14 A I'm not comfortable saying that it was  
 15 stripped.  
 16 Q When the part -- do you know where the parts  
 17 were removed from the car?  
 18 A Where?  
 19 Q Right.  
 20 A No, sir.  
 21 Q Do you know when?  
 22 A I can give you parameters of when.  
 23 Q From the time that it left the lot until the  
 24 time that it was discovered by the police?  
 25 A I would say that's safe to say, yes, sir.

21 (Pages 81 to 84)

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<p style="text-align: right;">Page 85</p> <p>1 Q Can you be any more specific than that?</p> <p>2 A No, sir.</p> <p>3 Q Do you know who removed the parts from the</p> <p>4 car?</p> <p>5 A No, I did not.</p> <p>6 Q Did you examine the place where the car was</p> <p>7 found?</p> <p>8 A Yes, sir, I did go to the recovery site.</p> <p>9 Q Where was it?</p> <p>10 A It in the -- I need to look at -- do you have</p> <p>11 the claim file I can look at?</p> <p>12 Q I think you've got it there.</p> <p>13 A The entire claim file?</p> <p>14 Q I don't know that I have the entire claim</p> <p>15 file, but I've got -- I know that I was never provided</p> <p>16 any photographs of the scene, of the parking lot. I</p> <p>17 know I haven't been provided with any photographs</p> <p>18 showing where the car was recovered. So if that is</p> <p>19 part of the entire claim file, then the answer is I've</p> <p>20 never been provided with the entire claim file.</p> <p>21 A Have you been provided with a MapQuest?</p> <p>22 MR. NEWMAN: Yeah, he got the map.</p> <p>23 Q (By Mr. Burge) Did you take photographs</p> <p>24 where it was recovered?</p> <p>25 A It was outside of a neighborhood, because I</p>	<p style="text-align: right;">Page 87</p> <p>1 or in front of a pine tree or in front of a bush or --</p> <p>2 there was no way to tell exactly.</p> <p>3 Q Without talking to the person who actually</p> <p>4 found it, the officer who actually found it?</p> <p>5 A Without -- and even then, from my</p> <p>6 recollection of dealing with other agencies, they</p> <p>7 normally don't give you specifics on that information.</p> <p>8 Q Okay. Did you try to speak with the officer</p> <p>9 who actually recovered it?</p> <p>10 A I don't recall if I actually spoke with the</p> <p>11 recovering officer. I do recall speaking with the</p> <p>12 detective and asking him if there were any arrests</p> <p>13 made.</p> <p>14 Q And you learned there was no arrest?</p> <p>15 A Correct.</p> <p>16 Q Had there been any canvassing of the</p> <p>17 neighborhood done by the police, to your knowledge?</p> <p>18 A Just to be honest, with my experience with</p> <p>19 DeKalb County, they don't go out and do canvasses very</p> <p>20 much.</p> <p>21 Q Okay.</p> <p>22 A I don't know if they've ever done it, to tell</p> <p>23 you the truth.</p> <p>24 Q That was something that you knew about that</p> <p>25 police department in 2005 while you were investigating</p>
<p style="text-align: right;">Page 86</p> <p>1 didn't know exactly at what place, because it had</p> <p>2 already been picked up and towed. So all I could do</p> <p>3 was go in -- and the police report, if I recall, is not</p> <p>4 exactly specific to the specific residence. If I</p> <p>5 remember correctly, it was in Decatur at a -- a Jane's</p> <p>6 Valley or -- I can't remember the exact address without</p> <p>7 looking at the file.</p> <p>8 Q Did you speak to the officer who recovered</p> <p>9 the car to find out specifically where it was sitting</p> <p>10 when it was recovered?</p> <p>11 A If memory serves me correctly, I didn't speak</p> <p>12 with the officer, but I spoke with Top Cat, and they</p> <p>13 would not give me any specific information about where</p> <p>14 it was recovered.</p> <p>15 Q When Top Cat would not give you any specific</p> <p>16 information, did you make an attempt to speak to the</p> <p>17 officer?</p> <p>18 A I know that -- can I look back at the</p> <p>19 activity log, if you don't mind?</p> <p>20 Q You can look back at anything you want to.</p> <p>21 A If I remember correctly, when I spoke with</p> <p>22 detective Fitzpatrick, he told me it was located</p> <p>23 abandoned. He didn't have the specific information as</p> <p>24 far as a specific address, and so there was no way to</p> <p>25 tell exactly which, like if it was in front of a house</p>	<p style="text-align: right;">Page 88</p> <p>1 these claims, true?</p> <p>2 A I think it's in -- in my experience, I don't</p> <p>3 think they've done that before.</p> <p>4 Q Did you or anyone on your behalf or State</p> <p>5 Farm's behalf perform any neighborhood canvassing in an</p> <p>6 attempt to find out when was this particular car left</p> <p>7 and by whom?</p> <p>8 A Yes, sir.</p> <p>9 Q Okay. Tell me where that neighborhood</p> <p>10 canvass is reflected in the activity log.</p> <p>11 A There's not a neighborhood canvass that I can</p> <p>12 recall. I know I went to that area.</p> <p>13 Q And did you canvass the neighborhood?</p> <p>14 A Yes, I went and drove through the -- that's</p> <p>15 why I'm saying I think I recall it was the Jane's</p> <p>16 Valley area, if memory serves me correctly, that was</p> <p>17 off of -- near Flat Shoals and 285.</p> <p>18 Q Did you interview anyone in the area?</p> <p>19 A There were no witnesses developed.</p> <p>20 Q Did you interview anyone?</p> <p>21 A No.</p> <p>22 Q Did you knock on any doors?</p> <p>23 A If memory serves me correctly, once again, I</p> <p>24 did not know a specific door to knock on, but I stopped</p> <p>25 and spoke to some passerbys in cars and people walking</p>

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1 around; and but once again, without knowing the exact,  
2 specific location, I did not have a clue exactly which  
3 house to knock on.

4 Q Did you make any notes in your activity log  
5 to reflect that you spoke with pedestrians or people  
6 driving by?

7 A Not that I can recall.

8 Q What would you expect to see if a car was  
9 towed? You said there was no indication that the car  
10 been told. What would you expect to see?

11 MR. NEWMAN: Object to the form of the  
12 question. He is misleading the witness. He  
13 never said that.

14 THE WITNESS: I disagree with the theory  
15 that the car was towed.

16 Q (By Mr. Burge) Okay. What physical evidence  
17 do you rely upon to conclude as a fact that the car was  
18 driven out of the lot versus towed out of the lot?

19 A Do you want me to go through my thought  
20 process on it?

21 Q I want to know physical facts.

22 A Physical facts. There was no skidmarks at  
23 the scene. The glass on the ground at the scene, why  
24 would they bust the glass out if they wanted to tow the  
25 vehicle.

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1 In my experience, vehicles that are towed  
2 where they have stolen parts, for instance, wheels and  
3 tires, when and if they are recovered, from my  
4 experience, they're recovered with no wheels or tires  
5 on that vehicle. They're just sitting on the rotors on  
6 the ground.

7 The fact that the vehicle was parked in front  
8 of a surveillance camera does not support that a thief  
9 would pull a wrecker into the parking lot underneath  
10 a -- or near a surveillance camera and take the time,  
11 which sometimes takes awhile to hook up a car, and  
12 especially a Corvette, which is that low to the ground.  
13 The area where -- if I recall exactly where Mr. Long  
14 said his vehicle was parked is very -- there is an  
15 island, a grassy island that is near that area that  
16 would make it hard for a wrecker to back in and secure  
17 the vehicle, much less if there were other vehicles  
18 close by. If I recall, Mr. Long indicated that there  
19 were other vehicles in the park -- parking lot next to  
20 where his was parked.

21 The -- the fact that the -- if you were going  
22 to tow a -- tow a vehicle, there would be no reason to  
23 try to make the column look like it was defeated by  
24 damaging the exterior of the column and the ignition  
25 when, in essence, it was not defeated. The ignition,

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1 whoever last drove the vehicle had a key, so -- and  
2 I'm -- one factor I like to add is there's no doubt in  
3 my mind this vehicle has been towed. It was towed from  
4 the recovery site to Top Cat, and then it was -- I  
5 don't know how many times it was towed once it was  
6 within Top Cat's lot, but then it was also towed from  
7 Top Cat to Verastar South. And I know for a fact, once  
8 the vehicle is at Verastar South, they periodically tow  
9 and move these vehicles around the lot.

10 And then I also -- I'm not sure, but I  
11 suspect the vehicle was towed from Verastar South at  
12 the direction of -- of your client, I'm not sure, but I  
13 suspect that's what it is. So that's at least a few  
14 times that it has been towed.

15 Q Is a key necessary to tow a car, this kind of  
16 car?

17 A Well, it's necessary to -- from my  
18 understanding, to disengage the transmission, to put it  
19 in either neutral or drive to then be able to roll it  
20 up; therefore, if it was still in park, you would have  
21 skidmarks at the scene when you drug it up on to the  
22 vehicle.

23 Q How was Mr. Long's car parked in the lot?

24 A My understanding is he pulled it into the  
25 parking spot out of the parking lot.

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1 Q He just drove it right in?

2 A It's -- I'd have to look at his recorded  
3 statement and statement under oath. Do you have that  
4 present?

5 Q I don't have the statement under oath, but do  
6 you recall without looking at anything else?

7 A I can't recall that he gave me specific  
8 information, whether it was backed or pulled in  
9 frontward.

10 Q Do you know whether or not a car of this  
11 nature would be towed from the back or from the front?

12 A I've had a Corvette before; and to tell you  
13 the truth, I wouldn't want it towed from either  
14 direction.

15 Q Why not?

16 A They're just not easy to tow. You have --  
17 you have to have, from my knowledge -- you would need a  
18 flatbed wrecker, something that -- because the Corvette  
19 sits low to the ground, and you need something that you  
20 can get a long angle to be able to -- without damaging  
21 the vehicle, either the front end or rear end.

22 Q Depending on which way you towed it?

23 A Right.

24 Q Do you make any notes in the activity log  
25 relating to your evaluation of whether this car was



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1 driven out of the lot or towed?  
2 A I don't think I do in that, but I think I  
3 previously gave you -- we discussed the fact that there  
4 were things in my thought process that do not go down  
5 in the activity log.  
6 Q I just want to know if there is anywhere in  
7 the claim file where you decided to put down any  
8 thought processes you had about whether or not there  
9 was -- the car was driven or towed, any -- any writings  
10 that would verify that you actually had those thought  
11 processes back at that time?  
12 A I don't recall if there's anything in the  
13 activity log, no, sir.  
14 Q Were you ever told by anyone that they  
15 believed that the car only had one set of keys?  
16 A Can I look back through my activity log?  
17 Q Sure.  
18 A Is that okay? It looks like on March 7th,  
19 2005, I spoke with Max at City Auto. And he originally  
20 thought the insured received one key to the vehicle,  
21 then he admitted he did not know for sure how many keys  
22 that had -- they had to the vehicle.  
23 Q But he told you that he thought there was  
24 only one but that he wasn't sure?  
25 A Correct.

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1 Q And did he tell you that most of the cars  
2 that are sold there only have one key?  
3 A No, he did not, that I can recall.  
4 Q Did you ask him?  
5 A I can't recall the -- specifically if he said  
6 that.  
7 Q Did you interview any prior owners of the car  
8 other than City Auto Sales?  
9 A No, sir.  
10 Q Did you try to?  
11 A I don't recall tracking down a prior history  
12 on the vehicle, no, sir.  
13 Q Do you know how to do that?  
14 A I don't know. I know that there's Web sites  
15 where you can -- is it Carfax or something where you  
16 can go through and see if there's a history of  
17 mechanical problems? I guess you could run a title  
18 history on the vehicle; but I'm not familiar, in the  
19 state of Alabama, their Department of Motor Vehicles  
20 standards and if they release that, I'm not -- I'm not  
21 sure about their...  
22 Q Have you ever done a title search before?  
23 A I've done one in the state of Georgia, yes,  
24 sir.  
25 Q And it tells you the people who have owned

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1 the car, who registered it in the state of Georgia?  
2 A Within a certain -- I have seen before  
3 previous owners, but their system changes so much in  
4 the state of Georgia, it's...  
5 Q And before 2005, when you handled this claim,  
6 had you done car title searches?  
7 A I don't recall specifically on claims, but  
8 I'm -- I'm sure I probably did.  
9 Q So it would be fair to say you don't know  
10 whether the car had -- whether prior owners only had  
11 one key to the car or not?  
12 A I don't know how many the prior owner had. I  
13 know how many your client told me he had.  
14 Q Okay. And did anyone ever tell you that a  
15 second key to the car may have been in the car?  
16 A If memory serves me correctly, at one time,  
17 your client said it may have been in there. However,  
18 in his statement under oath, if I recall, he retracted  
19 that and said that he was sure he did not leave that in  
20 there, or something to that effect.  
21 Q When did you last read his statement under  
22 oath?  
23 A I reviewed a partial -- I looked through it  
24 last night.  
25 Q Did you review all of the claim file last

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1 night?  
2 A Not all of it, but I have looked through  
3 parts the claim file over the last week or so.  
4 Q How many hours do you reckon you've spent  
5 going through the claims files relating to Mr. Long  
6 during this last week?  
7 A I -- I don't know.  
8 Q What is your best judgment?  
9 A I can't even give you a best judgment,  
10 because I handle other claims, so I don't sit down and  
11 say I've just spent 15 minutes with this claim versus  
12 the next one. So, I'm sorry, I just can't give you an  
13 answer.  
14 Q So under oath you can't tell us whether  
15 you've spent one hour, five hours, ten hours?  
16 A I can say it has been more than -- it's  
17 definitely been more than five hours, but looking  
18 specifically at this one claim --  
19 Q But looking at the Mr. Long matter?  
20 A It's safe to say I spent maybe ten or more on  
21 it. Like I say, I can't give you a specific time.  
22 Q Have you reviewed any materials in the last  
23 week, other than State Farm claims materials, such as  
24 answers to interrogatories, expert reports,  
25 litigation-related materials?

24 (Pages 93 to 96)

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1 A I have reviewed the claim with Attorney  
 2 Newnan, if that's what you're asking, yes, sir.  
 3 Q Have you reviewed any documents other than  
 4 documents in the claim file?  
 5 A Related to Mr. Long's claim?  
 6 Q Right.  
 7 A Nothing related to Mr. Long. I've reviewed a  
 8 lot of documents in the last week or two, but...  
 9 Q When a car is stolen and a person wants to  
 10 claim the value of the stolen vehicle under an auto  
 11 policy, is there an affidavit of theft that needs to be  
 12 filled out?  
 13 A We will -- as a normal rule, we will send an  
 14 affidavit of vehicle theft.  
 15 (WHEREUPON, Exhibit No. 22 was marked for  
 16 identification.)  
 17 Q (By Mr. Burge) And is that what you did in a  
 18 letter to Mr. Long, which is Exhibit 21?  
 19 A Exhibit 22?  
 20 Q Exhibit 22. Excuse me.  
 21 A Yes, sir, this is a letter that we sent to  
 22 Mr. Long that included an affidavit of vehicle theft.  
 23 (WHEREUPON, Exhibit No. 23 was marked for  
 24 identification.)  
 25 Q (By Mr. Burge) And Exhibit 23, is that his

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1 response?  
 2 A Yes, sir.  
 3 Q On the first page of Exhibit 23, does it ask  
 4 Mr. Long to say how much he's claiming under his auto  
 5 policy for the loss of the car?  
 6 A There is a question "amount for which you're  
 7 making claim," and his response was "paid 25,000."  
 8 Q And did you understand from that that he was  
 9 claiming at least \$25,000 for his car?  
 10 A I assume that's what that means, yes, sir.  
 11 Q Okay. In your investigation, you took  
 12 recorded statements from some individuals?  
 13 A As I recall, yes, sir.  
 14 Q One of them was Ram, Naidu, N-A-I-D-U?  
 15 A Yes, sir.  
 16 Q And he was the manager at the Country Hearth  
 17 Inn?  
 18 A I believe he was the shift manager on duty  
 19 that evening, yes, sir.  
 20 (WHEREUPON, Exhibit No. 24 was marked for  
 21 identification.)  
 22 Q (By Mr. Burge) And is Exhibit 24 a copy of  
 23 the statement that you took from him?  
 24 A Yes, sir. This appears to be the statement  
 25 of Mr. Naidu.

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1 Q Is that a correct and accurate copy of the  
 2 statement that you took? It has been produced to me by  
 3 State Farm as being that.  
 4 A Yes, sir.  
 5 Q Did you ask Mr. Naidu anything about what he  
 6 overheard Mr. Long say about keys? And I'll refer you  
 7 to page 5 in the middle of the page.  
 8 A He said he never -- my question, "Did he ever  
 9 mention what was in the car?" His answer was "No, he  
 10 never mentioned."  
 11 "Did he -- did he -- have you, do you ever  
 12 recall?"  
 13 "He did say that he had a bunch of keys in  
 14 there," he said.  
 15 "A bunch of keys in the car?"  
 16 And he's got "Um-hmm."  
 17 And I don't know if his "um-hmm" means yes or  
 18 no, but based off the previous question, I would assume  
 19 yes.  
 20 Q Based on your recollection, did Ram Naidu  
 21 tell you that he overheard Mr. Long mention that he had  
 22 some keys in the car when it was stolen?  
 23 A I can't recall specifically that.  
 24 Q Is that your interpretation of your interview  
 25 notes or your interview transcript?

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1 A Well, he -- based off this, he says he has a  
 2 bunch of keys in the car. And I don't know  
 3 specifically. He says "um-hmm," and, I, from being in  
 4 the south, I don't know if that means yes or no but --  
 5 and then it doesn't specifically say what type of keys;  
 6 if it was home, business, you know, what it could be, I  
 7 don't know.  
 8 Q But from that interview, you did hear -- you  
 9 did obtain information from Ram Naidu that he overheard  
 10 Mr. Long say something about keys being inside the car  
 11 that -- during that morning?  
 12 A Well, he's got an answer, "he did say he had  
 13 a bunch of keys in there."  
 14 Q And the only time Ram was with Mr. Long, to  
 15 your knowledge, was that morning, after the car was  
 16 discovered stolen on 2/19/05?  
 17 MR. NEWMAN: I'm sorry, repeat that,  
 18 Tucker. I wasn't --  
 19 Q (By Mr. Burge) The only time that Ram was  
 20 with Mr. Long, to your knowledge, was on the morning of  
 21 2/19/05, after the car was stolen?  
 22 A I disagree with that.  
 23 Q Okay. When did this conversation about --  
 24 when did he overhear Mr. Long make comments about  
 25 the -- there being keys in the car?

25 (Pages 97 to 100)

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1 A I'm not sure if I recall. I think he also  
 2 spoke with Mr. Long and his manager at that -- later on  
 3 that night, so I don't know what he may have overheard.  
 4 And I think there was a discussion later on that night,  
 5 but I'm not quite sure.  
 6 Q What's the -- do you know when -- when he  
 7 overheard comments about the keys being in the car?  
 8 A I assume it was that morning, but I'm not  
 9 sure.  
 10 Q You took a recorded statement from Mr. Long?  
 11 A Yes, I did.  
 12 Q Where did that statement -- where was it  
 13 taken?  
 14 A If memory serves me correctly, I met him at  
 15 our field claims office in Montgomery, Alabama.  
 16 Q Okay. How far is Montgomery from Decatur,  
 17 from DeKalb County?  
 18 A It's about three hours or so, maybe. I'm  
 19 not -- just depending on traffic and -- it's a lengthy  
 20 drive.  
 21 Q Okay. A couple of hundred miles?  
 22 A I'm not sure of the exact mileage, I'm sorry.  
 23 Q But you went to him; he didn't come to you?  
 24 A Correct.  
 25 Q Did he refuse to come to you?

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1 A No, he did not.  
 2 (WHEREUPON, Exhibit No. 25 was marked for  
 3 identification.)  
 4 Q (By Mr. Burge) Okay. Is Exhibit 25 a copy  
 5 of the statement that you took from Mr. Long?  
 6 A That appears to be the whole statement.  
 7 Q Okay. Well, you spent some time looking at  
 8 it, some minutes looking at it, so are you confident  
 9 that that's the statement?  
 10 A It looks like it. I was making sure that the  
 11 pages in it -- making sure that it looked like the  
 12 questions, I wanted to make sure that there wasn't  
 13 anything, but that looks like the whole statement, yes  
 14 sir.  
 15 Q Okay. And under where the blue tag is, do  
 16 you see that? What page is that?  
 17 A Page 29.  
 18 Q On page 29 of the statement, did you ask him  
 19 about the number of keys?  
 20 A Yes, sir.  
 21 Q And did you ask him about the location of any  
 22 other set of keys?  
 23 A I asked him, "So when you bought your car,  
 24 how many keys did you get?"  
 25 "I got two keys."

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1 "And is that -- there's one set. Where's the  
 2 other set?"  
 3 "I don't know. I'm thinking I must have  
 4 either left them in that car or somewhere. I don't  
 5 know where the other set of keys -- set of keys at."  
 6 Q So he told you, when you interviewed him in  
 7 Montgomery, that the -- any second set of keys he might  
 8 have had might have been in the car when it was stolen?  
 9 A He said, "I'm thinking I must have either  
 10 left them in the car or somewhere."  
 11 Q Okay. So -- and what date is that?  
 12 A The date of this statement is March the 2nd.  
 13 Q The day after you had looked at the car?  
 14 A I believe that's correct. Let me look. Hang  
 15 on one second, make sure, but I believe that is  
 16 correct. Yes, sir.  
 17 Q Were there any personal items inside the car  
 18 when you looked at it?  
 19 A Not that I can recall, no, sir.  
 20 Q So if there were any keys in the car when  
 21 Mr. Martin Long parked it in the hotel parking lot that  
 22 night, there weren't any in it when you saw it on March  
 23 the 1st?  
 24 MR. NEWMAN: Object to the form of the  
 25 question.

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1 THE WITNESS: When I inspected it on  
 2 March 1st, I -- I did not see any -- find any  
 3 keys or personal items.  
 4 MR. BURGE: We're at the one-hour mark  
 5 again.  
 6 (Whereupon, there was a brief recess.)  
 7 THE WITNESS: Mr. Burge, can I ask you a  
 8 question?  
 9 Q (By Mr. Burge) Yes.  
 10 A I asked Mr. Newnan on a break if I could go  
 11 back and add something to a previous question that I  
 12 wanted to add, and apparently I was either kind of  
 13 confused or I didn't make a good point of it. Is that  
 14 okay?  
 15 Q What is that?  
 16 A A couple things. When you asked a question  
 17 about the police report, we had some lengthy discussion  
 18 about if someone else filed a police report, and I  
 19 think, in your scenario, even for you --  
 20 Q Uh-uh.  
 21 A -- I can't recall ever being involved in a  
 22 claim where that was the only thing that led to a -- a  
 23 recommendation for a denial, so I wanted to make sure  
 24 that that was -- that was correct. I can't recall  
 25 that.

26 (Pages 101 to 104)

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1 Q I thought you said you couldn't recall one  
2 way or another?  
3 A Yeah, I can't recall, though, I really can't.  
4 And I want to make -- I was thinking about that, and I  
5 want to make sure and go back and -- you know,  
6 obviously there's always a situation where there could  
7 be a scenario where maybe there's goofy facts or  
8 something associated with that one call, but I can't --  
9 and secondly, when -- when we were discussing the  
10 wrecker portion, why I didn't think that it was towed,  
11 a couple other things I -- that -- that I can think of,  
12 and there's probably more, but at that time, when I  
13 went to that hotel, you could not see the hotel parking  
14 lot from Panola Road. And the site was a pretty good  
15 ways away from Farrington Road, but you could not see  
16 at that time the car or the parking lot. It was  
17 down -- Panola Road is above, and the parking lot and  
18 the motel sit way down below, and you couldn't see it  
19 just with the normal traffic, the majority of traffic  
20 is on Panola Road; and that, as well as the --  
21 Mr. Naidu was sitting right there. There's a window, a  
22 bay window that -- or a square window, I don't know if  
23 you call it bay, but it overlooks right to where the  
24 vehicle was parked and -- which to me just doesn't  
25 seem -- in my experience, it doesn't make sense that

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1 someone would come up there to try and tow a vehicle  
2 with that readily site and the fact of an alarm system  
3 on the vehicle, the fact of an alarm and that an alarm  
4 went off.  
5 And there could be more. That was just some  
6 I thought of. I know I had given you a list of a few  
7 things, and I want to make sure -- that's all I think  
8 of right now, I'm sorry.  
9 Q Do you want to change the answer about  
10 whether there is any documentation of your thought  
11 process anywhere about whether the car was driven or  
12 towed?  
13 A I don't -- I think that still remains the  
14 same. I don't think there's any -- anything in my  
15 thought process, documenting -- I'm sorry, I hope I  
16 didn't come across as sarcastic. I didn't mean -- I'm  
17 sorry.  
18 Q No, that's...  
19 (WHEREUPON, Exhibit No. 26 was marked for  
20 identification.)  
21 Q (By Mr. Burge) Exhibit 26 is a copy of  
22 police reports that you got.  
23 A Yes, sir.  
24 Q And the first page of that exhibit is a fax  
25 page sent to you by the officer -- is it Fitzpatrick?

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1 A Yes, sir, Detective Fitzpatrick.  
2 Q And it says that auto theft in the  
3 metropolitan -- is metro Atlanta's favorite group  
4 participation sport?  
5 A Yes, sir.  
6 Q That's the Dekalb Police Department telling  
7 you that?  
8 A Yes, sir.  
9 Q And they show that it was reported that  
10 morning, doesn't it, that the police were notified that  
11 morning that the car was stolen?  
12 A Yes, sir.  
13 (WHEREUPON, Exhibit No. 27 was marked for  
14 identification.)  
15 Q (By Mr. Burge) Exhibit 27, have you seen  
16 State Farm's advertisement about the problem of auto  
17 theft?  
18 A No, sir, I have not seen this article.  
19 Q State Farm doesn't provide that information  
20 to adjustors?  
21 A I'm sure we have access to going on the State  
22 Farm Web site just through the regular Internet at home  
23 or even -- but I haven't seen this particular article.  
24 Q Okay. Do you agree or have you been trained  
25 through some other means that auto theft is the number

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1 one -- what do they describe it at the bottom of the  
2 page, of the first page?  
3 A Most expensive property crime.  
4 Q Do you agree with that based on your  
5 training?  
6 A I would assume they wouldn't fabricate these  
7 figures, my own company I work for; so if that's what  
8 they have here, I will agree with that.  
9 Q Okay. And do you agree or acknowledge that  
10 it's a bigger problem in urban areas? It's on the  
11 second page where they talk about it.  
12 A Well, based on a 2001 study, it says produced  
13 apparently by NICB, the National Insurance Crime  
14 Bureau, it says it's primarily an urban problem, is  
15 what it says, yes, sir.  
16 Q And based on your work here in Atlanta, is it  
17 a problem here in the greater metropolitan area of  
18 Atlanta?  
19 A Yes, sir, thefts occur in the metropolitan  
20 area.  
21 Q And although Lithonia is on the interstate  
22 between Atlanta and Augusta, it is -- it is still  
23 considered in the greater Atlanta metropolitan area,  
24 isn't it?  
25 A I would consider it in the greater

27 (Pages 105 to 108)



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1 metropolitan area.  
 2 (WHEREUPON, Exhibit No. 28 was marked for  
 3 identification.)  
 4 Q (By Mr. Burge) Okay. Exhibit 28, is that  
 5 your handwriting?  
 6 A Yes, sir.  
 7 Q Did you ever have the interview with Evelyn  
 8 Long transcribed?  
 9 A I don't believe I did because I looked  
 10 through the file, and I don't recall seeing it.  
 11 Q Did she tell you how many cars -- how many  
 12 sets of keys she ever saw to that Corvette?  
 13 A I don't recall in our conversation.  
 14 Q Did you do a criminal background search on  
 15 Mr. Long?  
 16 A I'm sorry, I was going to look back through  
 17 and see if I had any documentation on my conversation  
 18 with Ms. Long, see if it prompted any memory. I don't  
 19 recall specifically doing a background search on -- on  
 20 Mr. Long.  
 21 When you say "background," you're talking  
 22 about criminal, or --  
 23 Q Right. Do you know of him having any  
 24 criminal convictions whatsoever?  
 25 A I think I -- I think I addressed that with

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1 Mr. Long's vehicle, you indicated Mr. Long had one set  
 2 of keys with him that weekend; however, you confirm  
 3 having a conversation with Mr. Long after the reported  
 4 theft regarding the number of keys he had.  
 5 Specifically you said Mr. Long told you he had a second  
 6 set of keys that may have been left in the vehicle;  
 7 however, you only confirm seeing one set that weekend."  
 8 Q Did Ms. Temple confirm that she was with  
 9 Mr. Long from the time that he parked the car in the  
 10 parking lot until it was discovered missing the  
 11 following morning?  
 12 A It says, "You confirm staying at the Country  
 13 Hearth Inn at I-20 and Panola Road. That Friday night  
 14 you confirm visiting your other brother, Donald Ware,  
 15 who resides in an apartment and/or condo in the  
 16 Decatur, Lithonia Georgia area. Also, you confirm  
 17 recently speaking with Mr. Long as he contacted you and  
 18 secured a phone number to contact your brother Donald  
 19 in order to give this information to State Farm. After  
 20 visiting your brother, you went to Country Hearth Inn  
 21 and arrived there around 10 p.m. Georgia time. You  
 22 indicated Mr. Long parked his 2000 Chevrolet Corvette  
 23 near an area supposedly monitored by a surveillance  
 24 camera. And this is the last time you saw the  
 25 vehicle."

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1 him in his recorded statement.  
 2 Q Okay.  
 3 A And I asked him if he had any -- without  
 4 looking exactly at it, I asked him if he had any prior  
 5 convictions or criminal, and I think he said no.  
 6 Q And did you note, based on your examination  
 7 of records in this matter, that he had an honorable  
 8 discharge from the military?  
 9 A I believe he -- did in his statement under  
 10 oath, I believe he did say that.  
 11 Q Did you interview Valerie Temple?  
 12 A Yes, sir.  
 13 Q Was that interview recorded?  
 14 A Yes, sir.  
 15 Q Was it transcribed?  
 16 A No, sir.  
 17 (WHEREUPON, Exhibit No. 29 was marked for  
 18 identification.)  
 19 Q (By Mr. Burge) Is this a letter that you  
 20 wrote, which is Exhibit 29?  
 21 A Yes, sir, it's a letter I wrote.  
 22 Q And in that letter, do you note what she told  
 23 you about how many keys he had to the car and the  
 24 location of those keys?  
 25 A The third paragraph says, "As for the keys to

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1 I would assume that she was with him that  
 2 evening, that entire evening until the -- the -- was  
 3 your question until they left to go back to Alabama?  
 4 Q Right.  
 5 A I assume she was.  
 6 Q When you took the statement from Mr. Long on  
 7 March the 2nd, 2005, and you finished asking him the  
 8 questions and you turned the tape recorder off, did he  
 9 tell you that, in fact, he had been over in Atlanta  
 10 with a woman?  
 11 A Yes.  
 12 Q Did he tell you that that woman was married?  
 13 A Let me see if I can look at my activity log.  
 14 If memory serves me correctly, he -- he did say that he  
 15 was with another woman. Let me see if I -- if memory  
 16 serves me correctly, he did say he was with another  
 17 woman, and I can't recall exactly, but I think he -- he  
 18 did say that this woman was married.  
 19 Q Can you understand why a man would not want  
 20 to get a married woman involved in an insurance  
 21 investigation for the theft of his car?  
 22 A I'm not being sarcastic here, but I've never  
 23 cheated on my wife, and I don't --  
 24 Q I'm not asking about you, personally.  
 25 A I know that. I just...

28 (Pages 109 to 112)

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<p style="text-align: right;">Page 113</p> <p>1 Q I'm asking whether you can understand why he</p> <p>2 would not want to get a married woman involved.</p> <p>3 A I guess it's safe to say that, yeah.</p> <p>4 Q Okay. You can't decide a claim based on the</p> <p>5 race of the insured, true?</p> <p>6 A True.</p> <p>7 Q That's not relevant, is it?</p> <p>8 A No.</p> <p>9 Q And you can't decide a claim based on the</p> <p>10 company that he keeps at the time of the theft, can</p> <p>11 you?</p> <p>12 A That's true.</p> <p>13 Q After he told you that he had been with a</p> <p>14 woman, at some point there was a decision to get an</p> <p>15 examination under oath?</p> <p>16 A Yes, sir.</p> <p>17 Q Okay. And the letter that was sent to him</p> <p>18 included a schedule telling him to bring certain</p> <p>19 materials, true?</p> <p>20 A Yes, sir.</p> <p>21 (WHEREUPON, Exhibit No. 30 was marked for</p> <p>22 identification.)</p> <p>23 Q (By Mr. Burge) And that's Exhibit 30, right?</p> <p>24 A Yes, sir.</p> <p>25 Q And Mr. Long went to that examination under</p>	<p style="text-align: right;">Page 115</p> <p>1 A They look like the credit reports, yes, sir.</p> <p>2 Q And they've been produced to me, as you can</p> <p>3 see, the Bates stamps at the bottom of the pages, as</p> <p>4 being credit reports contained in the personnel file --</p> <p>5 I mean, in the insurance claim file?</p> <p>6 A Yes, sir.</p> <p>7 Q What's the second thing that he's asked to</p> <p>8 bring with him?</p> <p>9 A "Copies of your bank statements for the last</p> <p>10 12 months."</p> <p>11 (WHEREUPON, Exhibit No. 33 was marked for</p> <p>12 identification.)</p> <p>13 Q (By Mr. Burge) Let me show you Plaintiff's</p> <p>14 Exhibit 33. Does that appear to be bank statements</p> <p>15 that were received by the SIU?</p> <p>16 A Once again, without actually viewing the --</p> <p>17 the physical file and the exhibits produced in the</p> <p>18 statement under oath, I can't say for sure, but this</p> <p>19 does look like a bank record from Evelyn G. Long, which</p> <p>20 is my understanding is his wife, or was at that time.</p> <p>21 Q And you didn't bring the claim file with you</p> <p>22 today, did you?</p> <p>23 A No, sir, I did not.</p> <p>24 Q So you don't have that to check against?</p> <p>25 A No, sir.</p>
<p style="text-align: right;">Page 114</p> <p>1 oath, didn't he?</p> <p>2 A Yes, sir.</p> <p>3 Q And looking to that page of schedule of</p> <p>4 things that he was supposed to bring, what's the first</p> <p>5 thing that he was asked to take to that examination</p> <p>6 under oath?</p> <p>7 A Number 1 is "copies of your credit report."</p> <p>8 (WHEREUPON, Exhibit No. 31 and Exhibit No. 32 were</p> <p>9 marked for identification.)</p> <p>10 Q (By Mr. Burge) Okay. Are Exhibits 31 and 32</p> <p>11 copies of the credit reports that he took?</p> <p>12 A Without viewing the exhibits that he provided</p> <p>13 at his statement under oath, I can only say that these</p> <p>14 are two credit reports, it looks like, for Martin</p> <p>15 O'Neil Long.</p> <p>16 Q Okay.</p> <p>17 A I mean, the date on this one is February</p> <p>18 28th -- I mean, excuse me, March 28th, '05. So I would</p> <p>19 assume that would be one that he provided. And this</p> <p>20 other was dated report date March 9th, 2005, which both</p> <p>21 would have been before the statement under oath, so I</p> <p>22 assume, yes, these were the two he provided.</p> <p>23 Q And based on having spent at least ten hours</p> <p>24 going through the file, are these reports that you</p> <p>25 recognize?</p>	<p style="text-align: right;">Page 116</p> <p>1 Q But do you have any reason to think that</p> <p>2 what's been Bates stamped as being part of your claim</p> <p>3 file, which I've marked as Exhibit 33 to your</p> <p>4 deposition, as something that you didn't have?</p> <p>5 A No, I assume what's been provided to you is</p> <p>6 what I have.</p> <p>7 Q Okay. What's the next item he was asked to</p> <p>8 take to you?</p> <p>9 A It looks like "copies of your cell phone</p> <p>10 records for the last four months."</p> <p>11 (WHEREUPON, Exhibit No. 34 was marked for</p> <p>12 identification.)</p> <p>13 Q (By Mr. Burge) What is Exhibit 34?</p> <p>14 A Those are the credit reports.</p> <p>15 Q You're saying 31 and 32 are the correct</p> <p>16 reports -- the credit reports?</p> <p>17 A The credit reports. I'm sorry, you've got a</p> <p>18 lot of documents here, and I mistakenly picked those</p> <p>19 up.</p> <p>20 Yes, these appear to be the cellular phone</p> <p>21 records, and it's under the name of Valerie Ware. And</p> <p>22 if memory serves me correctly, in his statement under</p> <p>23 oath, he mentioned that Valerie purchased a cell phone</p> <p>24 for him.</p> <p>25 Q Okay. And he brought you those records?</p>

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1 A Yes, sir.  
2 Q What's the next thing that's asked for?  
3 A "Copies of any documents related to your  
4 recent Worker's Compensation settlement."  
5 (WHEREUPON, Exhibit No. 35 was marked for  
6 identification.)  
7 Q (By Mr. Burge) Okay. Exhibit 35, do you  
8 recognize that as a copy of the release agreement that  
9 he brought to you relating to his compensation case  
10 against CSX?  
11 A Yes, sir, it appears to be.  
12 (WHEREUPON, Exhibit No. 36 was marked for  
13 identification.)  
14 Q (By Mr. Burge) And do you recognize Exhibit  
15 36 as being a copy of the settlement statement that he  
16 provided to you showing that he received \$175,568.99 as  
17 his share?  
18 A Yes, sir, that's what it appears to be.  
19 (WHEREUPON, Exhibit No. 37 was marked for  
20 identification.)  
21 Q (By Mr. Burge) Do you recognize Exhibit 37  
22 as being a copy of a bank draft paid to Martin Long in  
23 the amount of \$150,100.92 that he provided to you?  
24 A Yes, sir.  
25 (WHEREUPON, Exhibit No. 38 was marked for

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1 A The claims of contents stolen in the vehicle  
2 that he alleged were stolen in the vehicle.  
3 Q Right, that he was making a claim for under  
4 the homeowner's policy?  
5 A Well, he initially made that claim under the  
6 auto policy.  
7 Q But then it was pursued under the homeowner's  
8 policy?  
9 A Correct, a claim was set up under the  
10 homeowner's policy.  
11 Q Okay. And I'm guessing that's going to be  
12 further on down the stack when we talk about the  
13 homeowner's claim. What's the next after that?  
14 A Any additional keys to the vehicle in  
15 question.  
16 (WHEREUPON, Exhibit No. 45 was marked for  
17 identification.)  
18 Q (By Mr. Burge) Okay. Is Exhibit 45 a  
19 photograph and a copy of your handwritten receipt that  
20 you received keys that Mr. Long had?  
21 A Yes, sir.  
22 Q And he gave you one set of keys and told you  
23 that was all he had or could find?  
24 A He gave me one set of keys and said that was  
25 all he could locate.

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1 identification.)  
2 Q (By Mr. Burge) And do you recognize  
3 Plaintiff's Exhibit 38 as being a deposit ticket for  
4 that check that Mr. Long provided to you?  
5 A Yes, sir.  
6 Q What's the next item that he was asked to  
7 produce?  
8 A "Copies of your tax returns for the calendar  
9 years 2003 and 2004."  
10 Q And did he produce those to you?  
11 A If memory serves me correctly, I believe he  
12 did.  
13 Q What's the next item that was requested?  
14 A Copies of your divorce filings and papers.  
15 (WHEREUPON, Exhibit No. 39 was marked for  
16 identification.)  
17 Q (By Mr. Burge) Do you recognize Exhibit 39  
18 as being a copy of the settlement agreement that he  
19 provided to you relating to his divorce?  
20 A Yes, sir.  
21 Q What is the next item?  
22 A "Copies of receipts surrounding your personal  
23 items stolen."  
24 Q Okay. And that was the claims he was making  
25 under the homeowner's policy?

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1 Q Okay. What is the next item?  
2 A "The title to the vehicle in question."  
3 (WHEREUPON, Exhibit No. 40 was marked for  
4 identification.)  
5 Q (By Mr. Burge) Let me show you Exhibit 40  
6 and ask you if this is a copy of a fax that you got  
7 from City Auto Sales, which includes a copy of the sale  
8 documents for the car and a copy of the title held by  
9 the previous owner.  
10 A Yes, sir.  
11 (WHEREUPON, Exhibit No. 41 was marked for  
12 identification.)  
13 Q (By Mr. Burge) Is Exhibit 41 a copy of the  
14 title that Mr. Long provided to you for this car?  
15 A Yes, sir.  
16 (WHEREUPON, Exhibit No. 42 was marked for  
17 identification.)  
18 Q (By Mr. Burge) Is Exhibit 42 a copy of the  
19 tag registration that Mr. Long provided to you showing  
20 that he applied for a tag on February the 10th of 2005?  
21 A Yes, sir.  
22 Q What is the next item that he was asked to  
23 bring?  
24 A "Supporting documentation regarding your VA  
25 disability payments."

30 (Pages 117 to 120)

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1 (WHEREUPON, Exhibit No. 43 was marked for  
2 identification.)  
3 Q (By Mr. Burge) Is Exhibit 43 a copy of a  
4 Department of Veterans Affairs letter to Mr. Long  
5 reflecting that he received an honorable discharge and  
6 had a service connected disability?  
7 A Yes, sir.  
8 Q He provided that to you?  
9 A Yes, sir.  
10 Q What's the next item?  
11 A That's the only -- that's the only items on  
12 this list.  
13 Q Was he also asked by you to provide him with  
14 certain records relating to improvements that he had  
15 made to the car between the time he purchased it on the  
16 4th of February and when it was discovered missing from  
17 the parking lot on February the 19th of 2005?  
18 A Yes, I asked him to bring any receipts or  
19 documentation regarding maintenance or anything.  
20 (WHEREUPON, Exhibit No. 44 was marked for  
21 identification.)  
22 Q (By Mr. Burge) And do you recognize Exhibit  
23 44 as being some receipts that he provided to you  
24 showing that he had new tires purchased and some work  
25 done on the car at Big 10 Tires in Prattville, Alabama?

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1 Initially, whoever set it initially at \$500 to \$27,500,  
2 did that include not only the value of the car but the  
3 rental as well? I believe it was done on 5/11 of '05.  
4 A I believe that would include the  
5 consideration, and that's just an approximate amount,  
6 so there is no way to tell the exact amount.  
7 Q Who are Transportation Technologies?  
8 A It's a company that inspects vehicles.  
9 Q Was your first contact with that company in  
10 March of 2005 when you were working on Martin Long's  
11 claim? Had you ever dealt with them before?  
12 A Yes, sir.  
13 Q On how many occasions had you dealt with  
14 Transportation Technology before?  
15 A I can't recall over the years how many times.  
16 Numerous times.  
17 Q Okay. Do you have a judgment as to whether  
18 it's more or less than ten times?  
19 A I deal with so many of these companies, I  
20 would -- safe to say it has been over ten times.  
21 Q Has it been over 20 times?  
22 A I can't recall the exact number.  
23 Q Can you tell me whether it's more or less  
24 than 20 times?  
25 A I would probably say less than 20.

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1 A Yes, sir.  
2 Q As part of your claim, did you obtain an  
3 Autosource Valuation report for this car?  
4 A I requested an ADP valuation, yes, sir.  
5 Q Okay. What is that?  
6 A It -- at that time, it was a valuation  
7 company that performed a market survey for State Farm.  
8 (WHEREUPON, Exhibit No. 46 was marked for  
9 identification.)  
10 Q (By Mr. Burge) Is Exhibit 46 a copy of that  
11 report that you received?  
12 A Yes, sir.  
13 Q Whose handwriting is on the last page?  
14 A That's my handwriting.  
15 Q And what did you determine the value of that  
16 car to be?  
17 A With tax and fees, the value is \$25,789.50.  
18 Q And had you paid the claim, is that the  
19 amount that would have been paid for his car on his  
20 claim under the auto policy?  
21 A It would have been that amount less his \$500  
22 deductible, so it would have been -- ACV after  
23 deductible would have been 25,289.50.  
24 Q And ultimately when you have the reserves on  
25 the case raised from \$500 in -- wherever it was set

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1 Q What services does Transportation Technology  
2 provide for you?  
3 A Well, we request that they look at vehicles  
4 to determine if they -- if there is fire damage  
5 involved, we request to see if they look at it and see  
6 if it was an intentionally set fire and where it may  
7 have started. We request that they look at ignitions  
8 and columns to see if there is any -- if they've been  
9 damaged or anything, evidence to support how it could  
10 have been driven.  
11 Mechanically they would look at it to see --  
12 let's say if a car has experienced some mechanical  
13 problems, and they may look at it to see what caused  
14 the mechanical problems. They could also look at it to  
15 see if there is recall items involved; let's say if  
16 there is a national recall, they may look at it to see  
17 what caused the damage and see if it was a recall item.  
18 Let's say it was a switch, it could have caught on  
19 fire. There could be more, I'm not sure.  
20 Q Is Michael Bresnock the person that you deal  
21 with at Transportation Technology each time?  
22 A Yes.  
23 Q Are there any other companies that perform  
24 the same services for State Farm that you use?  
25 A Yes, sir.

31 (Pages 121 to 124)



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1 Q Who were the other companies?  
 2 A Well, that I recall, Keene Investigative  
 3 Services, and that's K-E-E-N-E. A guy named Barry  
 4 Slaughter; he's with a — I can't think of the exact  
 5 name of his company. I think maybe Tony can assist me  
 6 on that one, but it's — he's with another company.  
 7 There's a company called Technifire that I've dealt  
 8 with and a gentleman's name, Jerry Carter. There's a  
 9 company called — I just call it NATS for short,  
 10 N-A-T-S. I think they're actually based out of Las  
 11 Vegas or somewhere, but they have representatives all  
 12 over the country. I can't think of the guy's name  
 13 offhand, but he's out of Birmingham, and he's with —  
 14 he's done vehicles before for me.  
 15 Q So is it fair to say that Mr. Bresnock has  
 16 some competition for y'all's business?  
 17 A I think it's fair to say that about any one  
 18 of those, yes, sir.  
 19 Q When you send him out to do an evaluation, do  
 20 you receive reports from him?  
 21 A Yes, sir.  
 22 Q And do you also receive bills from him?  
 23 A Yes, sir.  
 24 (WHEREUPON, Exhibit No. 47 through Exhibit No. 51  
 25 were marked for identification.)

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1 Q (By Mr. Burge) Are Exhibits 47 through 51  
 2 correct copies of the reports and bills that you have  
 3 received from Mr. Bresnock relating to Mr. Long's  
 4 claims?  
 5 A Yes, sir.  
 6 MR. BURGE: While it's only been 50  
 7 minutes this time, it is probably as good a  
 8 time as any if you-all want to go see if the  
 9 lunch is ready.  
 10 (Whereupon, there was a lunch recess from 12:12 p.m. to  
 11 12:46 p.m.)  
 12 Q (By Mr. Burge) Mr. Smith, what was the  
 13 condition of the alarm system when the car was  
 14 recovered?  
 15 A When it was inspected, Mr. Bresnock's opinion  
 16 was at that time it was — when he inspected, it was  
 17 not operating.  
 18 Q It didn't work?  
 19 A When he inspected it, it did not work, like I  
 20 said.  
 21 Q And when he looked at the alarm system, it  
 22 didn't look like anything had been cut?  
 23 A I'll have my understanding from his report.  
 24 If I recall, that is correct, there were no wires out  
 25 of place.

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1 Q But it just didn't work for whatever reason?  
 2 A There was numerous amount of messages that  
 3 came across. Apparently the car was experiencing  
 4 electrical problems, was what I gathered out of it.  
 5 Q Okay. Do you know whether the alarm system  
 6 was working at the time it was taken from the lot,  
 7 given that it was not working when it was inspected by  
 8 the Transportation Technology?  
 9 A All I've got to go on is what Mr. Long  
 10 advised me, and he said it was working.  
 11 Q And did he say he'd ever heard it go off,  
 12 that he'd ever heard the alarm sound?  
 13 A I'll look back through his recorded  
 14 statement. I can't remember if he specifically said he  
 15 ever activated it or not. I can't remember.  
 16 Q But the only evidence you have of anyone who  
 17 inspected the alarm system to determine whether it  
 18 worked or not is Mr. Bresnock's report?  
 19 A Yes, sir.  
 20 Q Were you with him when he did his inspection?  
 21 A Yes, sir.  
 22 Q And were you aware that he was trying to make  
 23 the alarm system go off?  
 24 A Yes, sir.  
 25 Q Were you with him when he tried to use the

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1 key the first time?  
 2 A Yes, sir.  
 3 Q And it didn't work?  
 4 A When — the very first time, if memory serves  
 5 me correctly, the pellet reader was — was out of —  
 6 wasn't turned correctly; and as soon as he turned it  
 7 correctly, he was able to insert it and start the car.  
 8 Q The ignition was loose and he had to adjust  
 9 the pellet reader in the ignition in order to get the  
 10 key to work?  
 11 A Right, the ignition cylinder, the pellet  
 12 reader is outside the cylinder, and he had to adjust  
 13 that back.  
 14 Q Is it possible that whoever took the car  
 15 discovered the key inside the car and used a key that  
 16 was inside the car?  
 17 A It just doesn't make sense to me. If they  
 18 did, why would they beat the column up to make it look  
 19 like it was stolen?  
 20 Q Do you think they might have beat the column  
 21 up to try to hot wire the car and then perhaps said,  
 22 well, look here, here is a key, why not use that; is  
 23 that possible?  
 24 A My knowledge of those theft deterrent  
 25 systems, you don't just hot wire that car like an older

32 (Pages 125 to 128)

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<p style="text-align: right;">Page 129</p> <p>1 model car like you might used to.</p> <p>2 Q Of course, you don't know who the thieves</p> <p>3 were, so you don't know what they knew?</p> <p>4 A I don't know who last drove that vehicle.</p> <p>5 Q Okay. Did Ram see anyone looking around the</p> <p>6 car before it was taken?</p> <p>7 A The best I can recall, he didn't comment that</p> <p>8 he saw anyone around the vehicle.</p> <p>9 Q He didn't see it leave the parking lot or how</p> <p>10 it left the parking lot?</p> <p>11 A Best I can recall, he did not see it.</p> <p>12 Q Was the car driveable other than the lack of</p> <p>13 seats; could it be safely driven when it was recovered?</p> <p>14 A If memory serves me correctly, when</p> <p>15 Mr. Bresnock started the vehicle up, he was able to put</p> <p>16 it in drive, and he was able to move it forward and</p> <p>17 then put it in reverse; so, yes, he could have driven</p> <p>18 it.</p> <p>19 Q Was the brake system functioning?</p> <p>20 A If memory serves me correctly, the brake</p> <p>21 system, the pedal went to the floor, and that was</p> <p>22 another relay that came up and said that there was low</p> <p>23 brake fluid.</p> <p>24 Q Had the brake fluid actually been drained</p> <p>25 from the car?</p>	<p style="text-align: right;">Page 131</p> <p>1 pliers and screwdrivers and -- but I've never removed a</p> <p>2 specific caliper on that year model Corvette.</p> <p>3 Q Did you inspect the undercarriage of the car?</p> <p>4 A I looked at the undercarriage. Due to</p> <p>5 insurance regulations, it's very difficult to get</p> <p>6 authority from Verastar to let us look under it. Yes,</p> <p>7 I looked underneath it, but I couldn't get directly</p> <p>8 underneath the center of the vehicle.</p> <p>9 Q On how many occasions did you accompany</p> <p>10 Mr. Bresnock to look at this car?</p> <p>11 A Two times, if I recall correctly.</p> <p>12 Q And did you ever have the car -- or have a</p> <p>13 chance to inspect the underside of the car while it was</p> <p>14 raised?</p> <p>15 A The second time, I believe -- I'd have to</p> <p>16 look at the report. I think the second time they --</p> <p>17 they raised the vehicle up and -- and we had an</p> <p>18 opportunity to look underneath it then. That's</p> <p>19 correct.</p> <p>20 Q Did you ever check to find out why the</p> <p>21 security cameras at the hotel were not operating at the</p> <p>22 time that this theft was reported?</p> <p>23 A I spoke with the manager at the hotel, and</p> <p>24 they -- and for lack of knowledge -- knowledge, I don't</p> <p>25 know that much about computers, but they said something</p>
<p style="text-align: right;">Page 130</p> <p>1 A If I recall, there was -- he checked the</p> <p>2 master cylinder, and I'm not exactly sure, I think it</p> <p>3 was low on fluid, but I'm not exactly sure.</p> <p>4 Q In fact, was the brake master cylinder</p> <p>5 reservoir empty?</p> <p>6 A I believe it was either almost drained or</p> <p>7 empty.</p> <p>8 Q Were there brake system components missing or</p> <p>9 disabled?</p> <p>10 A I don't recall if there were any missing or</p> <p>11 disabled. One thing you have to consider is that this</p> <p>12 vehicle has sat in two salvage yards, that I've been to</p> <p>13 both, and they are rough, that there is parts of these</p> <p>14 salvage yards that you can't even get a vehicle down</p> <p>15 into and driving. And so it has been flat on the</p> <p>16 ground, there's been jagged rocks, ditches around, so</p> <p>17 the undercarriage of the vehicle, it is -- In my</p> <p>18 experience, it's very common that there's damage to</p> <p>19 undercarriages of vehicles due to this rough ground,</p> <p>20 generally result in the absence of calipers. I can't</p> <p>21 recall all claims, but I guess it's possible.</p> <p>22 Q Do you know what tools are required if you're</p> <p>23 going to remove brake calipers in the conventional way?</p> <p>24 A I don't know specific tools. I mean,</p> <p>25 obviously, you'll need wrenches and sockets and -- and</p>	<p style="text-align: right;">Page 132</p> <p>1 about the CD ROM or something was damaged on their --</p> <p>2 their system or something.</p> <p>3 Q Is that the kind of damage, to your</p> <p>4 understanding, that someone just looking at the cameras</p> <p>5 would -- would realize and appreciate?</p> <p>6 A Can you be more specific? I don't know what</p> <p>7 you're asking me.</p> <p>8 Q Would just looking at the camera -- based on</p> <p>9 your understanding, if you're outside and you're just</p> <p>10 looking at the camera, would you be able to tell that</p> <p>11 the camera was not operating?</p> <p>12 A I don't think you would be able to, no.</p> <p>13 Q Do you know who maintained the hotel video</p> <p>14 surveillance equipment?</p> <p>15 A Maintained as far as, what, worked on it,</p> <p>16 maintenance?</p> <p>17 Q Yeah.</p> <p>18 A No, sir.</p> <p>19 Q Did you ever get any records from the hotel</p> <p>20 relating to their surveillance equipment or the</p> <p>21 maintenance on it or any proof that it was out of</p> <p>22 service at the time?</p> <p>23 A No, I never got a -- any maintenance records</p> <p>24 or anything.</p> <p>25 Q Did you do any background checks on any of</p>

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<p style="text-align: right;">Page 133</p> <p>1 the hotel employees?</p> <p>2 A No, I did not.</p> <p>3 Q Was the -- there any damage to the</p> <p>4 transmission linkage when the car was discovered?</p> <p>5 A Not that I can recall, but I'd have to look</p> <p>6 back through the report.</p> <p>7 Based on Mr. Bresnock's report, he says that</p> <p>8 it is likely that the linkage was bent.</p> <p>9 Q Do you know what that signifies?</p> <p>10 A I assume, based on that, that this linkage on</p> <p>11 the transmission could have been bent at some time.</p> <p>12 Q Do you know how a linkage becomes bent?</p> <p>13 A How does a linkage become bent?</p> <p>14 Q Do you know?</p> <p>15 A No, I mean -- I don't know. It could be from</p> <p>16 damage to the undercarriage of the vehicle or it could</p> <p>17 be -- I assume multiple ways that that could be bent.</p> <p>18 Q Do you know if it could be bent by an</p> <p>19 individual trying to force a -- a car from park into</p> <p>20 neutral?</p> <p>21 A I'm not sure if that will cause that damage.</p> <p>22 Q Did you ever check out the possibilities for</p> <p>23 why the linkage was bent?</p> <p>24 A I don't recall specifically asking why the</p> <p>25 linkage was bent.</p>	<p style="text-align: right;">Page 135</p> <p>1 drive, the condition of their vehicles. I mean, I know</p> <p>2 people drive their vehicles in poor condition a lot of</p> <p>3 times.</p> <p>4 Q That would be certainly an unreasonable thing</p> <p>5 to do, wouldn't it, to be driving a car with no brakes?</p> <p>6 A From what I've seen in Atlanta, anything is</p> <p>7 possible in driving in the Atlanta area.</p> <p>8 Q And while it would be possible, it wouldn't</p> <p>9 be reasonable, would it?</p> <p>10 A What I consider reasonable and what somebody</p> <p>11 does, I tell you it's -- it's -- I can't say. I can't</p> <p>12 speak for somebody else. What I can say is in my</p> <p>13 experience, I -- it's not reasonable that if they would</p> <p>14 take the time to put wheels back on a vehicle once it</p> <p>15 has been stolen.</p> <p>16 Q And would you need to have wheels on a</p> <p>17 vehicle in order to tow it?</p> <p>18 A No.</p> <p>19 Q You would just be making sparks down the</p> <p>20 road?</p> <p>21 A Not on a flatbed, you wouldn't.</p> <p>22 Q Okay. So there's different kinds of tow --</p> <p>23 tow trucks?</p> <p>24 A Correct.</p> <p>25 Q Okay. Was there any damage to the front</p>
<p style="text-align: right;">Page 134</p> <p>1 (WHEREUPON, Exhibit No. 52 was marked for</p> <p>2 identification.)</p> <p>3 Q (By Mr. Burge) Exhibit 52, is this the</p> <p>4 receipt you got from Top Cat Towing?</p> <p>5 A It looks like it. I believe this is most</p> <p>6 likely the receipt that Verastar secured on the</p> <p>7 vehicle, correct.</p> <p>8 Q Okay. You had that as part of your claim</p> <p>9 file?</p> <p>10 A From what I recall, yes, sir.</p> <p>11 Q Okay. Does it indicate whether any keys were</p> <p>12 needed to tow that car?</p> <p>13 A It doesn't say anything about keys. It just</p> <p>14 says "towed to lot."</p> <p>15 Q When you saw the car, were the lug nuts on</p> <p>16 the -- for the tires all in place and secure?</p> <p>17 A If memory serves me correctly, there were</p> <p>18 some lug nuts missing.</p> <p>19 Q Were some also loose?</p> <p>20 A I believe there were.</p> <p>21 Q In your experience as a claims adjuster, do</p> <p>22 individuals generally drive cars that do not have</p> <p>23 operable brakes or -- or have lug nuts missing or</p> <p>24 loose?</p> <p>25 A I can't say what people drive -- how they</p>	<p style="text-align: right;">Page 136</p> <p>1 bumper?</p> <p>2 A I would have to look at the photos of the</p> <p>3 vehicle.</p> <p>4 Q Do you recall any damage to the front bumper?</p> <p>5 A I think I recall some scratches to the --</p> <p>6 there were some minor scratches, if I recall, all over</p> <p>7 the vehicle.</p> <p>8 Q Did I note at the top of page 3 of your -- of</p> <p>9 the -- your report to the auto claim committee that the</p> <p>10 front bumper cover was damaged?</p> <p>11 A It says here the front bumper cover was</p> <p>12 damaged.</p> <p>13 Q Did you take any pictures of that damage?</p> <p>14 A It also says in my report there was all over</p> <p>15 exterior scratches to the body. I think I took photos</p> <p>16 of the vehicle. I would have to look at the claim file</p> <p>17 to see. I believe I did take some photos.</p> <p>18 Q If you did, then they were not -- the only</p> <p>19 photos that have been produced to me are those that</p> <p>20 under Mr. Bresnock's report.</p> <p>21 A I would have to go back and look at the file,</p> <p>22 because if I did -- they could be in imaging if I took</p> <p>23 any, but I'd have to go back and check.</p> <p>24 Q Did State Farm have any repairs made to the</p> <p>25 vehicle?</p>

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1 A Not that I'm aware of, no.  
2 (WHEREUPON, Exhibit No. 53 was marked for  
3 identification.)  
4 Q (By Mr. Burge) What is Exhibit 53 that  
5 comes -- is routed to you and was produced to me as  
6 part of your claims file?  
7 A This is a frequency tracking search response.  
8 Q And that shows that this gentleman has had  
9 four claims in the period requested during the time  
10 frame requested?  
11 A It shows, based on the address, the 2752  
12 Carolina Drive in Millbrook, Alabama, he's had four  
13 claims: April 25th, 2003, February 13th, 2005, and two  
14 claims on February 19th, 2005.  
15 Q And do you remember the 2003 claim being  
16 a property damage claim under the homeowner policy for  
17 damage to a carport connected to his mobile home?  
18 A I believe I recall Mr. Long, when we  
19 discussed the claim, that he said something about  
20 having some hail damage, if I remember correctly.  
21 Q Okay. He was paid for that?  
22 A Yes, he was, I believe so.  
23 Q Okay. When an individual receives money from  
24 State Farm for a loss that's covered by their  
25 insurance, can they use that money however they want,

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1 or do they have to make the repairs that are the  
2 subject of the claim?  
3 A I guess they can use that money any way they  
4 want.  
5 (WHEREUPON, Exhibit No. 54 marked for  
6 identification.)  
7 Q (By Mr. Burge) Okay. Is Exhibit 54 a letter  
8 that you sent to me relating to the automobile claim  
9 for the Corvette?  
10 A Yes, sir. You are F. Tucker? That's  
11 correct.  
12 Q That's correct.  
13 A I know it says Burge and Burge, so, yes, sir.  
14 Q Okay. And did you receive this letter from  
15 me dated June the 29th?  
16 A I received this letter, and I believe it was  
17 routed to my team manager, correct.  
18 Q Okay. You never responded to that letter,  
19 did you?  
20 A No, sir, I believe that I -- like I said, I  
21 routed this letter to my team manager to respond.  
22 (WHEREUPON, Exhibit No. 56 was marked for  
23 identification.)  
24 Q (By Mr. Burge) What is Exhibit 56?  
25 A This is a closing report.

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1 Q Okay. And that was generated by you?  
2 A Correct.  
3 Q It's part of your claims file?  
4 A Correct.  
5 (WHEREUPON, Exhibit No. 57 was marked for  
6 identification.)  
7 Q (By Mr. Burge) What is Exhibit 57?  
8 A I -- I don't do these, but if memory serves  
9 me correctly, this is something that my -- that the  
10 secretary within our unit would attach to a file once  
11 it's prepared to be closed.  
12 Q And it says at the bottom, "external." What  
13 does the "external" part mean, if you know?  
14 A I'm not exactly sure. Like I said, I never  
15 complete this form, so...  
16 (WHEREUPON, Exhibit No. 58 was marked for  
17 identification.)  
18 Q (By Mr. Burge) What is Exhibit 58, which was  
19 produced to me as part of the claim file?  
20 A This appears to be a notice from the National  
21 Insurance Crime Bureau where they -- we would get a  
22 print, if a -- regarding a vehicle, if it's been  
23 cleared from a computer, from the police computer,  
24 which I think they call theirs the NCIC, their little  
25 national computer. And on here, it's got "date

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1 "recovered 2/25/2005, recovering LEA," which I think  
2 stands for law enforcement agency, "DeKalb County  
3 Police Department."  
4 Q And the top of the page appears to be an  
5 Airborne Express receipt?  
6 A Correct.  
7 Q What were you sending and to whom?  
8 A I don't know why this was copied on this  
9 right here, but I think the -- if I remember correctly,  
10 the inspection that Mr. Bresnock performed was sent to  
11 a gentleman named Earl Hieser in our corporate office  
12 for his review.  
13 Q Who is Mr. Hieser?  
14 A He is -- I think he's an engineer or he's in  
15 our engineering department at State Farm. Mr. Nix  
16 might could answer that better than me.  
17 Q Okay. On what date was it sent?  
18 A It says June 16th, 2005, but that's not my  
19 handwriting on it.  
20 Q And does it show you as the sender?  
21 A It shows sent by me; but if memory serves me  
22 correctly, it would have been sent from my secretary,  
23 because I'll tell you the truth, I don't know how to  
24 use Airborne Express. And I can tell you I don't know  
25 why this recovery notice -- unless it was just included

35 (Pages 137 to 140)



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1 in -- in error, but --  
 2 Q What did Mr. Long do with the money that he  
 3 received from the settlement based on your  
 4 investigation?  
 5 A From the -- from the Worker's Comp.  
 6 settlement that he got?  
 7 Q Correct.  
 8 A From what I recall, he said he paid off some  
 9 credit card debt. I think he assisted his wife in  
 10 paying for some -- I think some -- some money for  
 11 college or tuition, whatever you want to call it. He  
 12 split some of the money with her, I think he said. He  
 13 purchased the Corvette, I think he said he bought some  
 14 personal items, some jewelry, maybe, and a -- and a gun  
 15 with it.  
 16 Q Based on your review --  
 17 A That's what I can recall.  
 18 Q -- did you find anything unreasonable about  
 19 him paying off all of his credit card bills with the  
 20 money?  
 21 A No, I didn't find that unreasonable at all.  
 22 Q It might be responsible, wouldn't it?  
 23 A Probably. It's what I would do.  
 24 Q And paying off his wife's student loan, was  
 25 there anything unreasonable about that?

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1 A I don't know what type of agreement they had  
 2 in their relationship, so I don't know if that would be  
 3 unreasonable or not.  
 4 Q You mentioned that you've had a Corvette in  
 5 the past. Is that something that you had always  
 6 wanted?  
 7 A I wouldn't say I always wanted. I've -- when  
 8 I was young, I -- I restored a lot of hot rods.  
 9 Q You don't find anything unreasonable about a  
 10 man wanting or dreaming to have a Corvette, do you?  
 11 A No, I would -- I would love to have a '32  
 12 three-window coupe, but that doesn't mean I'm going to  
 13 get that.  
 14 Q Based on your evaluation of this gentleman's  
 15 financial condition, he had money coming in every month  
 16 for disability?  
 17 A That's my understanding, yes, sir.  
 18 Q And he produced documentation of that, true?  
 19 A Yes, he has -- I believe that disability  
 20 statement we went over earlier. I don't know if  
 21 that -- I'd have to look at it. I don't know if it  
 22 shows an exact amount, but if I can recall, he said he  
 23 got paid a thousand, 1100, something like that, a  
 24 month.  
 25 Q Did you see his mobile home?

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1 A No, I did not see his mobile home.  
 2 Q But you saw that it was valued at \$50,000?  
 3 A I would have to look at the --  
 4 Q Okay.  
 5 A -- the claim to see the value on the -- on  
 6 the claim. I can't recall the exact...  
 7 Q Well, in terms of housing, was it your  
 8 finding that he did not live extravagantly?  
 9 A I never -- I never came to that opinion on --  
 10 on how he lived.  
 11 Q Did you find that his monthly expenses were  
 12 less than his monthly income?  
 13 A I don't recall the exact amount of monthly  
 14 expenses. I know we went over some of them in his  
 15 recorded statement; but, no, I can't testify that that  
 16 was -- that he told me all of his expenses that he had  
 17 Q Did he tell you all of the expenses that you  
 18 asked for?  
 19 A I would have to look at the recorded  
 20 statement and see.  
 21 Q You wanted to look at his statement again?  
 22 A Yes, thank you. Here he says he receives  
 23 \$1100 in disability. Let me keep reading on. It looks  
 24 like it's \$291 a month for his mobile home payment.  
 25 His utilities were \$80 a month, it looks like, roughly.

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1 Based on my initial statement and the  
 2 questions I asked him, I would say \$1100 would be  
 3 sufficient to pay it; however, there's a lot of  
 4 questions that -- it could be a lot of other  
 5 outstanding bills, like food and miscellaneous toiletry  
 6 items. We have the insurance, I think, which we went  
 7 over earlier, which I'm not exactly sure if that's all  
 8 he pays a month in insurance. I think -- if I recall  
 9 in his statement under oath, the attorney that secured  
 10 it may have gone over more specific information on his  
 11 monthly expenses.  
 12 (WHEREUPON, Exhibit No. 91 was marked for  
 13 identification.)  
 14 Q (By Mr. Burge) And is Exhibit 91 a report  
 15 that you wrote after that examination under oath? I  
 16 won't ask you if it's complete because it appears that  
 17 some parts of it has been whited out, but that's what  
 18 been produced to me.  
 19 A Yes, this is something I completed, a  
 20 post-examination under oath summary report.  
 21 Q And does that refresh your memory on the  
 22 first page as to his fixed monthly expenses on the  
 23 first page?  
 24 A The expenses for the mobile home and for the  
 25 utilities, based off this, they were approximately

36 (Pages 141 to 144)

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<p style="text-align: right;">Page 145</p> <p>1 \$591; but there again, there are possibly others,  2 expenses he may have.  3 Q But you didn't bother to find those out,  4 true?  5 A I did not request those in the examination  6 under oath, because I didn't question him on that. I  7 just left it to the attorney.  8 Q At any time you did not request other  9 information about his monthly expenses?  10 A Based on the recorded statement, I did not --  11 I did not request from him his specific additional  12 information.  13 Q Was he essentially debt free when his car was  14 stolen, based on your investigation?  15 A Based on his testimony, yes.  16 Q Okay. And based on your review of records?  17 A Looking at -- from what I recall from the  18 facts of the claim, he -- even though he had spent  19 almost all of his money he got from his settlement, he  20 was debt free from the bills that he had told us about.  21 Q Could Mr. Long have -- well, first, did he  22 have any encumbrances that you know of on that  23 Corvette, any liens from anybody?  24 A Is that what you mean by encumbrances?  25 Q Right?</p>	<p style="text-align: right;">Page 147</p> <p>1 put on that car since he had purchased it?  2 A As I recall looking at the receipts, I think  3 we looked at earlier, yeah, he had bought from Big 10  4 tire, I believe, is the...  5 Q And he had last had work done on his car on  6 Friday, February 18th at Big 10 Tire?  7 A Can I look at those receipts -- do you have  8 those? I want to make sure the dates are right.  9 Q Well, but without looking at the date, do you  10 not recall when he last had work done on his car?  11 A I recall that he had a suspension problem,  12 apparently because he had tie rod ends, if I remember  13 correctly, replaced, and an alignment done on the  14 vehicle prior to this, but I don't recall the exact  15 date. I'm sorry.  16 Q It's the very first page, 2/18/05.  17 A I see that. I haven't got to it. I'm sorry,  18 I'm a little slow. Okay?  19 Q That's all right.  20 A 2/18, it looks like he had a thrust angle  21 alignment tie rod end, new, put on it; tire rod end,  22 labor, put on it, and then there is a fee for shop  23 materials.  24 Q How much did he pay on that date?  25 A Invoice total was \$270.45.</p>
<p style="text-align: right;">Page 146</p> <p>1 A Not that I know of, no.  2 Q Not based on your investigation?  3 A No. He -- he provided a copy of the title  4 that showed no lien on the title.  5 Q So he could have sold that car at any time,  6 true?  7 A With the clear title, I -- yeah, I assume so.  8 Q So if he needed money and wanted to sell that  9 car, there would be nothing to prevent him from doing  10 that, would there?  11 MR. NEWMAN: Object to the form of the  12 question.  13 THE WITNESS: Repeat the question again,  14 please.  15 Q (By Mr. Burge) If -- there was nothing that  16 would have inhibited him from selling that Corvette if  17 he needed money?  18 MR. NEWMAN: Same objection.  19 THE WITNESS: I guess if he needed  20 money, he could have sold anything that he  21 owned.  22 Q (By Mr. Burge) Okay. And he owned that  23 Corvette free and clear?  24 A Based on the title, yes, sir.  25 Q Based on your investigation, he had new tires</p>	<p style="text-align: right;">Page 148</p> <p>1 Q So he still had work done to improve his car  2 on the day he leaves for Atlanta based on the materials  3 that you were provided during your investigation, true?  4 MR. NEWMAN: Object to the form of the  5 question.  6 THE WITNESS: Rephrase that, if you  7 don't mind.  8 Q (By Mr. Burge) He was still having work done  9 to improve his car?  10 MR. NEWMAN: Same objection.  11 Q (By Mr. Burge) On the day that he left for  12 Atlanta based on your investigation?  13 MR. NEWMAN: Same objection.  14 THE WITNESS: Looking at -- looking at  15 this, it looks like when you start talking  16 about tie rod ends, that's talking about  17 front suspension and alignment, that tells me  18 that he was required to do this in order to  19 drive that vehicle.  20 Q (By Mr. Burge) And that improved the car,  21 true?  22 A No, that would tell me that he gets it back  23 in the condition that another car similar to that would  24 be. I think a car of 70,000 miles, which this shows  25 the mileage of 70,000, that to me seems unusual that</p>

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1 you would need to replace tie rod ends on it.  
2 Q 70,000 is the exact number, I'm sorry?  
3 A It says mileage, 70,000 -- it looks like 804.  
4 Q Okay.  
5 A That's -- I assume that's a 70,804, but  
6 that's just based off this invoice.  
7 Q And the mileage on the one before, what was  
8 that?  
9 A That was February the 10th, 70,000.  
10 Q So he's driving about 800 miles a day -- I  
11 mean, excuse me, about a hundred miles a day on average  
12 for that eight-day period between those two?  
13 A Based off this, yes, sir.  
14 Q Okay. Did you talk to anybody at Big Ten  
15 Tire Company at any point during your investigation?  
16 A I don't recall talking to Big 10.  
17 Q Did you interview anyone at the State Farm  
18 office in Millbrook where Mr. Long purchased this  
19 policy?  
20 A Interview -- I believe I spoke to the -- the  
21 agent contacted me on -- but I don't think I did a  
22 formal interview where I would have recorded our  
23 conversation.  
24 Q Did you speak with anyone who worked there  
25 who saw Mr. Long's Corvette?

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1 A I believe I spoke to one of their  
2 representatives, if I can look back through this. I  
3 spoke with Lee, looks like, on March the 2nd. And she  
4 was one that apparently Mr. Long had provided her a  
5 copy of his Alabama DMV receipt, but I don't recall her  
6 saying she ever physically inspected the vehicle. I  
7 don't recall the agent saying if he ever physically  
8 inspected the vehicle.  
9 Q And if you had asked that and they had told  
10 you that, is that something that you expect would have  
11 been in your report?  
12 A May or may not have. I can't -- I can't say.  
13 Because, to be honest, I don't recall exactly what I  
14 spoke with the agent about, about the claim. It has  
15 been a long time ago.  
16 THE WITNESS: Is it okay if we take  
17 another break?  
18 (Whereupon, a discussion ensued off the record.)  
19 Q (By Mr. Burge) And you said you weren't part  
20 of the claim committee?  
21 A Me?  
22 Q Right.  
23 A No, sir.  
24 Q Did you ever see in the claim committee  
25 report where it noted that you recommended that the

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1 claim be denied?  
2 A Yeah, I recommended the claim be denied.  
3 Q Okay. Based on your conclusion that there  
4 had not been a loss as defined in the policy?  
5 A And based on material misrepresentation.  
6 Q What are the material misrepresentations  
7 relating to the automobile claim?  
8 A Well, I got misrepresentations, and I can't  
9 recall all of them, there is so many. But I can kind  
10 of break them down in some categories for you, if you'd  
11 like. I got -- there's misrepresentations related to  
12 the facts of the claim. Initially, Mr. Long told me  
13 that he went to the Atlanta area just to relax, and  
14 that he chose a -- just a random hotel off the side of  
15 the interstate. And after his initial statement, he  
16 actually told me that, in essence, he actually had a  
17 girl with him. He didn't go by himself, even though I  
18 questioned him specifically about that.  
19 I also questioned him at that time about if  
20 there was any other friends or parties that were with  
21 him, and he said, no, there were not. However, during  
22 his statement under oath, he ended up changing that  
23 story and said that there were two brothers and some  
24 other friends. I guess these are two brothers of -- of  
25 Valerie Ware that was with him.

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1 As for Valerie Ware, he claimed he didn't  
2 even know her last name. He said her name was Valerie,  
3 and that was the only way he knew her. And he  
4 continued to maintain that until throughout the  
5 statement under oath, actually, until confronted, if I  
6 remember correctly, with the cell phone records that  
7 had her name on it.  
8 Q He brought you those cell phone records,  
9 didn't he?  
10 A Correct, I believe.  
11 Q Okay. Go on.  
12 A He initially claimed that he discovered his  
13 vehicle missing when he went just downstairs to the  
14 lobby and was possibly going to get something to eat,  
15 but he changed his story and ended up saying that  
16 his -- one of the girls that was with one of Valerie's  
17 brothers was actually the one that discovered the  
18 vehicle missing the next morning. He initially said  
19 that he reported the theft to the police, then he  
20 changed his story and ended up saying that it was one  
21 of the brothers that actually called the police.  
22 Q But the police were called that morning,  
23 true?  
24 MR. NEWMAN: Are you going to let him  
25 finish?

38 (Pages 149 to 152)

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1 MR. BURGE: No, I'm going to ask him  
 2 this question. I'm conducting the  
 3 examination --  
 4 MR. NEWMAN: I know you are, that's  
 5 fine. Let me just put on the record an  
 6 objection that you're not letting the witness  
 7 finish his answer after you've asked him a  
 8 question; you're interrupting him.  
 9 Q (By Mr. Burge) And it was reported to the  
 10 police that morning, true?  
 11 A Yes, it was reported.  
 12 Q Okay. Continue.  
 13 A There were questions regarding the -- the  
 14 contents in the vehicle that he indicated he had  
 15 numerous contents in the -- in the vehicle, some  
 16 were -- some of which were suitpants and shoes that he  
 17 claimed he had purchased the month before the theft and  
 18 provided an invoice on that.  
 19 Q And that's part of the homeowner's claim?  
 20 A It's -- it's part of the loss, this one theft  
 21 loss.  
 22 Q But it's the homeowner's claim?  
 23 A Well, it goes to the totality of the alleged  
 24 theft.  
 25 Q Well, I understand that that's what you're

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1 a homeowner's policy, and he's making a claim under a  
 2 policy --  
 3 A He's making a claim under both, correct.  
 4 Q And the --  
 5 A Are you going to give me an opportunity --  
 6 Q The first page of the auto claim manual says  
 7 that each claim will be handled on its own merits,  
 8 true?  
 9 A Each claim, yes, sir.  
 10 Q It doesn't say each loss, does it?  
 11 A Well, this is one theft.  
 12 Q It doesn't say each theft will be handled on  
 13 its own loss; it says each claim, true?  
 14 A It said -- let me look at that again.  
 15 Q Each claim.  
 16 A It does say that. And then it goes on to say  
 17 on its own merits in accordance with the facts of the  
 18 loss. And unfortunately you -- I don't know where I  
 19 was as far as on my answer now.  
 20 Q You had talked about the contents, and we  
 21 started talking about those being under the homeowner's  
 22 policy. Any other facts of the claim that you claim  
 23 were misrepresented?  
 24 MR. NEWMAN: No, what he said -- I'm  
 25 going to move to strike because what he said

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1 saying, but I just want to make clear that what you're  
 2 talking about now are the claims that he made under the  
 3 homeowner's policy, which we haven't got to yet.  
 4 A No, what I'm talking about now is the alleged  
 5 theft of the vehicle. He has two policies, however.  
 6 To me, it is one theft that he's alleging. He  
 7 initially tried to -- was told during the initial  
 8 stages that his auto policy would only pay up to \$200  
 9 for all these alleged personal items, and only at that  
 10 point in time did he turn around and file a separate  
 11 homeowner's claim, but --  
 12 Q Regardless of the timing, the items were  
 13 claimed under the homeowner's policy, right?  
 14 A They were -- it's still the same theft.  
 15 Q Okay. Two different claims arising out of  
 16 one theft, right --  
 17 A Can I --  
 18 Q -- is that right?  
 19 A I would like -- which one do you want me to  
 20 answer? Which --  
 21 Q There were -- you're saying there is one  
 22 theft, but they're two claims out of one theft?  
 23 A He has two policies available to address that  
 24 one theft claim.  
 25 Q And he's making a claim under a policy that's

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1 was that it was part of the loss and that the  
 2 whole thing was viewed together. That's what  
 3 he said. That's -- you then have rephrased  
 4 it.  
 5 Q (By Mr. Burge) The facts of the claim, any  
 6 other misrepresentations that prompted you to recommend  
 7 against paying for his lost car?  
 8 A Once again, the items --  
 9 MR. NEWMAN: Same objection, I think he  
 10 is mischaracterizing the witness's  
 11 testimony.  
 12 Q (By Mr. Burge) You can go ahead.  
 13 A The items that he claimed, the clothing items  
 14 that I was mentioning earlier, I went to the area where  
 15 he claimed he purchased them, and they verified that  
 16 not only had he purchased clothes there in the past,  
 17 but that he had specifically come there and requested  
 18 that they write him up an estimate and date it for  
 19 that -- that month, an invoice; and the owner there  
 20 said that when, in actuality, he had not purchased all  
 21 those items that month.  
 22 If memory serves me correctly, the -- at one  
 23 point in time, he had mentioned he went -- as for the  
 24 facts, he said he had went there and went to -- went  
 25 straight to the hotel and then went to bed that

39 (Pages 153 to 156)



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1 evening. But however, I think in his statement under  
 2 oath, he went on to say that they actually went to one  
 3 of the girls he was with brother's home in the area and  
 4 saw them that evening.  
 5 As for the — the condition of the vehicle  
 6 itself, the — the fact that he would be concerned to  
 7 park his vehicle under a surveillance camera, however  
 8 then go and leave that much money and a gun and never  
 9 unload his items out of the vehicle and leave all the  
 10 jewelry and everything in the vehicle, if he was that  
 11 worried about something happening to his vehicle, that  
 12 just doesn't make sense to me that he would leave that  
 13 many items in his vehicle, especially that much cash;  
 14 the fact that he — he claimed, and even on his  
 15 affidavit, said the vehicle, it was locked, and he  
 16 claimed that he had two sets of keys. And in his  
 17 statement under oath he testified that he, indeed, had  
 18 two sets of keys, but he could not explain the  
 19 whereabouts about the second set. And we know that the  
 20 vehicle was last driven using a — a key based on  
 21 the — Mr. Bresnock's report, the fact that it just  
 22 doesn't seem likely that a thief would have stolen that  
 23 vehicle with a surveillance camera there. Looking in  
 24 that area, the vehicle was — was parked in close  
 25 proximity to a window where it would have been readily

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1 viewed from the inside of the Country Hearth at that  
 2 time.  
 3 Q Where Ram was working?  
 4 A Where Ram was working, correct.  
 5 Q Ram, the one who said in the Wal-Mart across  
 6 the street, cars had been stolen where there are  
 7 security cameras, true?  
 8 A I believe that's what he said, yes, sir.  
 9 Q Okay.  
 10 MR. NEWMAN: I think the question was  
 11 directed to misrepresentations, and you've  
 12 kind of —  
 13 THE WITNESS: I'm sorry.  
 14 MR. NEWMAN: No, that's all right. It  
 15 may be fine for Tucker, but I think that's  
 16 what the question was — started out a long  
 17 time ago.  
 18 Q (By Mr. Burge) Have you told me all the  
 19 misrepresentations that you relied upon?  
 20 A There was a misrepresentation regarding  
 21 the — he indicated he advised the police of all the  
 22 items including the gun inside of the vehicle, but the  
 23 initial report failed to mention any personal items in  
 24 it. And it's my experience, dealing with DeKalb  
 25 County, especially if you're dealing with a gun that

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1 would have been inside the vehicle, they would have  
 2 included that on their initial report.  
 3 Q Any other reasons?  
 4 A I'm sure there's more, but that's all that I  
 5 can recall at this time.  
 6 Q Did he misrepresent the value of the  
 7 Corvette?  
 8 A I can't recall if we ever had a — a  
 9 discussion regarding the actual value of the Corvette.  
 10 He said that he paid \$25,000 for it, and the survey  
 11 came back that that was right in the ballpark of what  
 12 the value was.  
 13 Q And on his affidavit of loss, he put — when  
 14 he's asked what he's claiming, he put, "I paid 25,000"?  
 15 A Correct.  
 16 Q Did you ever meet with Valerie's brothers?  
 17 A I never met face to face, I'm sorry.  
 18 Q Did you ever speak to them?  
 19 A If I remember correctly, I spoke to Ricky  
 20 Ware, I think it was Ricky Ware. I would have to look  
 21 back through. I think I also may have spoke to Donald,  
 22 I'm not sure. I think it was Sandy that I attempted to  
 23 speak with, and we — and I never spoke to him outside  
 24 of one initial conversation where he said he didn't  
 25 have time to speak with me. Yes, I spoke to Ricky

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1 Ware.  
 2 Q Did each of them confirm that the car was in  
 3 good condition when they saw it?  
 4 A As far as the condition of the car, I believe  
 5 they all said that it was, you know, a Corvette and in  
 6 nice shape.  
 7 Q Did you find anybody who said that Mr. Long  
 8 was trying to get rid of that car, any witness  
 9 anywhere?  
 10 A Not that I can recall.  
 11 Q Did you ever send him back his premium for  
 12 the Corvette?  
 13 A I'm not an agent. I'm not in charge of that.  
 14 Q Does your claim file reflect that he was ever  
 15 repaid anything for the Corvette?  
 16 A Not that I recall.  
 17 MR. NEWMAN: On the premium now, is  
 18 what —  
 19 MR. BURGE: On anything.  
 20 Q (By Mr. Burge) Did he get his premium back  
 21 on the Corvette, based on your claim file?  
 22 A I'm not an agent, so I don't — I don't know  
 23 how that works. I don't think anything in our file  
 24 here reflects that he got a paid premium back, but I'm  
 25 not sure.

40 (Pages 157 to 160)

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1 Q So is it accurate that your recommendation,  
 2 at least in part, relating to the claim for the missing  
 3 automobile and damaged automobile was based on  
 4 misrepresentations regarding personal property contents  
 5 that were the subject of the homeowner's claim; is that  
 6 accurate?

7 MR. NEWMAN: Object to the form of the  
 8 question.

9 Q (By Mr. Burge) You can answer.

10 A My recommendation was based on the totality  
 11 of the misrepresentations that your client made during  
 12 the presentation of his claim.

13 Q And I want you to answer my question. You've  
 14 said that a number of times, and I appreciate it, but  
 15 did you or did you not recommend that the automobile  
 16 policy claim for the damage to the automobile be  
 17 denied? Yes or no?

18 A Yes.

19 Q Did you, in part, make that recommendation  
 20 based on what you perceive to be misrepresentations  
 21 regarding the value of certain clothing items that were  
 22 contents of the car at the time that had left that  
 23 parking lot?

24 MR. NEWMAN: Object to the form of the  
 25 question. He's been over this.

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1 Q (By Mr. Burge) You can answer it.

2 MR. NEWMAN: But he's been over it.

3 MR. BURGE: No, but he didn't answer it,  
 4 so I want him to answer it.

5 MR. NEWMAN: He can keep giving the same  
 6 answer because it's a satisfactory answer.

7 MR. BURGE: No.

8 MR. NEWMAN: You just don't like it.

9 MR. BURGE: No, I object to counsel  
 10 instructing the witness how to answer the  
 11 question, and that's exactly what just went  
 12 on. It's improper.

13 MR. NEWMAN: I object to counsel  
 14 continuing to try to get the answer out of a  
 15 witness when he knows the witness has  
 16 answered the question several times. He just  
 17 does not like it, and that's improper.

18 Q (By Mr. Burge) Was there a misrepresentation  
 19 about the value of the clothes that were personal  
 20 property in the car, based on your investigation, that  
 21 prompted you to recommend — at least in part prompt  
 22 you to recommend that the car be — the automobile  
 23 claim be denied?

24 MR. NEWMAN: Same objection.

25 THE WITNESS: I'm going to give you the

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1 same answer. The totality of the  
 2 misrepresentations in this theft is what led  
 3 to my recommendation that this claim be  
 4 denied.

5 Q (By Mr. Burge) And the totality for the —  
 6 that resulted in your recommendation included what you  
 7 perceived to be misrepresentation about the value of  
 8 the clothing items, true?

9 A I disagree because you said "value."

10 Q What word would you prefer?

11 A The question is were they ever — did they  
 12 ever exist.

13 Q The totality, in your opinion, includes  
 14 whether or not there were clothing items inside the  
 15 car, true?

16 A Once again, the totality of all the  
 17 misrepresentations I considered in the evaluation of  
 18 the theft claim loss.

19 Q And my question is whether that totality  
 20 included misrepresentations that you believed were made  
 21 in the homeowner's claim?

22 A It included the fact that he's claiming items  
 23 in that car that were not there.

24 Q And those are items he claimed under the  
 25 homeowner's policy, right?

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1 A Actually, no, he initially claimed he had  
 2 items stolen under his auto policy.

3 Q And then you helped him revise his claim so  
 4 that it fit within his coverages, true?

5 A No, I did not.

6 Q Who did?

7 A If memory serves me correctly, he spoke with  
 8 a — a field claim rep that initially told him that  
 9 only \$200 was the only amount that was included under  
 10 his comprehensive coverage for contents.

11 Q And so the items at the time that the claim  
 12 was denied, all the personal items were made under the  
 13 homeowner's policy, correct?

14 A Rephrase that question, if you don't mind. I  
 15 want to make sure —

16 Q At the time that the claims were denied, all  
 17 of the personal items in the car were being — he was  
 18 seeking to recover under the homeowner's policy, true?

19 A I think that's true.

20 Q The homeowner's policy is something that he  
 21 had had in effect for a number of years, true?

22 A I'm not sure how long he had had that in  
 23 effect.

24 (WHEREUPON, Exhibit No. 61 was marked for  
 25 identification.)

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1 Q (By Mr. Burge) In your claim file, you have  
 2 Exhibit 61, which is the manufacturer's home  
 3 application?  
 4 MR. NEWMAN: It's not part -- I think,  
 5 let me see that, Tucker. That's not part of  
 6 the claim file, but you can ask him that.  
 7 MR. BURGE: That was sent to me as being  
 8 his application by State Farm's lawyers.  
 9 MR. NEWMAN: That's right, your question  
 10 was was it in the claim file.  
 11 Q (By Mr. Burge) Did you ever see that before  
 12 today?  
 13 MR. NEWMAN: You asked for questions  
 14 concerning things in the underwriting as well  
 15 as the claim file.  
 16 Q (By Mr. Burge) Have you ever seen that  
 17 before?  
 18 A I don't recall seeing his manufactured home  
 19 application.  
 20 (WHEREUPON, Exhibit No. 59 was marked for  
 21 identification.)  
 22 Q (By Mr. Burge) Have you ever seen Exhibit 59  
 23 before, which is his declarations page for his  
 24 homeowner's policy?  
 25 A I don't recall seeing his declarations, no.

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1 (WHEREUPON, Exhibit No. 60 was marked for  
 2 identification.)  
 3 Q (By Mr. Burge) Do you ever recall seeing the  
 4 renewal certificate which says "we appreciate our  
 5 long-term customers," that's Exhibit 60?  
 6 A No, I don't recall seeing this.  
 7 Q Before adjusting his claim for the contents  
 8 of this car, did you undertake to find out whether he  
 9 had a policy in effect?  
 10 A Pursuant to his -- a fire claim record, he --  
 11 he did have a policy in effect.  
 12 Q And did you ever see a copy of that policy?  
 13 A I saw the -- the fire claim report.  
 14 Q Okay. Did you ever see a copy of his policy?  
 15 A The specific -- his specific policy?  
 16 Q Or the policy --  
 17 A No.  
 18 Q -- that he had?  
 19 A No. I have seen a policy similar to the one  
 20 he had, but I did not see his policy. I don't request  
 21 certified policies on every claim.  
 22 (WHEREUPON, Exhibit No. 62 was marked for  
 23 identification.)  
 24 Q (By Mr. Burge) Is Exhibit 62 a copy of that  
 25 policy?

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1 A Do you have the fire record, fire service  
 2 record, fire claim service record I could look at?  
 3 (WHEREUPON, Exhibit No. 65 was marked for  
 4 identification.)  
 5 Q (By Mr. Burge) That's Exhibit 65.  
 6 A Thanks. He had a manufactured home policy  
 7 7933 and, what you've got right here, without going  
 8 through the whole thing, I believe this is a 7933. It  
 9 says it here.  
 10 Q What is a PDQ printout?  
 11 A I'm not sure exactly what you're saying about  
 12 PDQ.  
 13 (WHEREUPON, Exhibit No. 63 was marked for  
 14 identification.)  
 15 Q (By Mr. Burge) Let me show you Exhibit 63  
 16 that was produced by State Farm in this case. Are you  
 17 familiar with that document?  
 18 A I've never seen this document. I think this  
 19 appears to be some type of underwriting document, but  
 20 I'm not sure.  
 21 (WHEREUPON, Exhibit No. 64 was marked for  
 22 identification.)  
 23 Q (By Mr. Burge) Let me show you Exhibit 64.  
 24 Is this the referral of this particular claim to the  
 25 SIU unit?

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1 A Yes, sir.  
 2 Q What was the reason for sending that claim  
 3 over?  
 4 A Do you want me to read the entire brief facts  
 5 of the claim?  
 6 Q I think it has indicators at the back of the  
 7 third page. At the bottom of the end of the third  
 8 page, it says these are the reasons.  
 9 A Well, we also take into consideration the  
 10 facts, so...  
 11 Q What does it have listed as your indicators?  
 12 A "Indicators/reason for referring," it says,  
 13 "the insured is not employed. The hotel night manager  
 14 overheard the insured and friends talking about adding  
 15 items to the items taken in the vehicle claim history."  
 16 Q What is the policy number for that claim -- I  
 17 mean, the claim number for that particular claim?  
 18 MR. NEWMAN: Let me see that a minute.  
 19 Okay.  
 20 THE WITNESS: 01 Q 177057.  
 21 Q (By Mr. Burge) So it has a different claim  
 22 number than the claim for the Corvette under the auto  
 23 policy?  
 24 A It has a different claim number, yes, sir.  
 25 Q And did you do a preliminary report in that

42 (Pages 165 to 168)

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<p style="text-align: right;">Page 169</p> <p>1 case, just as you had done for the other claim?</p> <p>2 A I assume I would have.</p> <p>3 Q Okay. In fact, did you do two property loss</p> <p>4 preliminary reports; one on the 4th of March, and one</p> <p>5 on the 11th of March of 2005?</p> <p>6 A I assume I would have. Can I view those?</p> <p>7 (WHEREUPON, Exhibit No. 66 and Exhibit No. 67 were</p> <p>8 marked for identification.)</p> <p>9 Q (By Mr. Burge) Those are 67 and 66.</p> <p>10 A Correct.</p> <p>11 Q Would you hand me 66.</p> <p>12 A (Witness complied with the request of</p> <p>13 counsel.)</p> <p>14 Q It looks like you have the same nine</p> <p>15 indicators that you had on the other one in terms of --</p> <p>16 in the automobile claim in terms of why it was sent</p> <p>17 over to SIU. Here's that one. It's Exhibit 20, if you</p> <p>18 want to compare.</p> <p>19 A This is the same one (indicating).</p> <p>20 Q Okay. Same -- the same indicators that we've</p> <p>21 already talked about?</p> <p>22 A This is the same report you just gave me,</p> <p>23 Exhibit 20 and Exhibit 66 are the same. Someone has</p> <p>24 written -- put that number right there (indicating).</p> <p>25 That's not my handwriting.</p>	<p style="text-align: right;">Page 171</p> <p>1 Q What claim number does that one relate to?</p> <p>2 A The homeowner's claim, 01 Q 177057. I was</p> <p>3 talking to myself I'm sorry.</p> <p>4 MR. NEWMAN: Go ahead. And say it out</p> <p>5 loud for her.</p> <p>6 THE WITNESS: 01 Q 177057.</p> <p>7 Q (By Mr. Burge) And does it include a gun and</p> <p>8 a bracelet listed from a Quick Pawn Shop.</p> <p>9 A It doesn't say pawn shop on there, but it</p> <p>10 does have a 45 auto handgun and four bracelets.</p> <p>11 (WHEREUPON, Exhibit No. 70 was marked for</p> <p>12 identification.)</p> <p>13 Q (By Mr. Burge) And Exhibit 70, are those</p> <p>14 receipts that he provided to you for a handgun and for</p> <p>15 a bracelet?</p> <p>16 A Yes, sir.</p> <p>17 Q Did I understand you earlier to say that you</p> <p>18 would expect the DeKalb County Police report to mention</p> <p>19 that a gun was -- had been stolen in the car?</p> <p>20 A In my experience, dealing with DeKalb County,</p> <p>21 they, if a gun has ever been alleged to be stolen in a</p> <p>22 vehicle -- along with a vehicle, they would include</p> <p>23 that in their report.</p> <p>24 (WHEREUPON, Exhibit No. 71 was marked for</p> <p>25 identification.)</p>
<p style="text-align: right;">Page 170</p> <p>1 Q Okay. So someone just took the auto one and</p> <p>2 changed it to the homeowner's claim number?</p> <p>3 A No, I disagree with that. Somebody has just</p> <p>4 marked through that and added that. I don't know why</p> <p>5 they would do that, so that's not my handwriting.</p> <p>6 Q Is 67 one that is specifically for the</p> <p>7 homeowner's claim?</p> <p>8 A Yes.</p> <p>9 Q Does it have the same indicators?</p> <p>10 A It looks like he has similar indicators.</p> <p>11 Q Okay. "He" being you? I mean, did you</p> <p>12 generate that report?</p> <p>13 A This (indicating)?</p> <p>14 Q Yes.</p> <p>15 A Yes.</p> <p>16 (WHEREUPON, Exhibit No. 68 was marked for</p> <p>17 identification.)</p> <p>18 Q (By Mr. Burge) Okay. Did you have a copy of</p> <p>19 this statement taken of the plaintiff by Pearlle</p> <p>20 Harris, which is Exhibit 68?</p> <p>21 A Yes.</p> <p>22 (WHEREUPON, Exhibit No. 69 was marked for</p> <p>23 identification.)</p> <p>24 Q (By Mr. Burge) What is Exhibit 69?</p> <p>25 A That's a personal property inventory form.</p>	<p style="text-align: right;">Page 172</p> <p>1 Q (By Mr. Burge) Did you get Exhibit 71 from</p> <p>2 the City of Millbrook Police during your investigation,</p> <p>3 showing that on the morning of Monday, February 21st,</p> <p>4 Mr. Long made a report for a 45 automatic handgun that</p> <p>5 was stolen in Atlanta?</p> <p>6 A It is a report. I don't know what this</p> <p>7 handwriting is on the bottom, though. But it</p> <p>8 is underlined stolen in Atlanta.</p> <p>9 Q And that's a report that was sent to you by</p> <p>10 the Millbrook Police Department as part of your</p> <p>11 investigation?</p> <p>12 A Correct.</p> <p>13 (WHEREUPON, Exhibit No. 72 and Exhibit No. 73 was</p> <p>14 marked for identification.)</p> <p>15 Q (By Mr. Burge) What are Exhibits 72 and 73</p> <p>16 and whose handwriting?</p> <p>17 A Exhibit 72, that's my handwriting. And I</p> <p>18 believe these are notes that I was taking as I secured</p> <p>19 Mr. Long's initial recorded statement. I'm going to</p> <p>20 look through Exhibit 73. Hang on.</p> <p>21 Q First, whose handwriting is it?</p> <p>22 A Let me finish looking through it, and then I</p> <p>23 can tell you. Exhibit 73 is my handwriting, and it</p> <p>24 looks like this is his statement under oath, my notes I</p> <p>25 was taking during his statement under oath. Mr. Long's</p>



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1 statement under oath.  
 2 (WHEREUPON, Exhibit No. 74 was marked for  
 3 identification.)  
 4 Q (By Mr. Burge) What is Exhibit 74 and whose  
 5 handwriting is it?  
 6 A This is my handwriting, and it looks like it  
 7 relates to valuation of his claim.  
 8 Q What did you determine based on those notes?  
 9 A This is not an exact determination. This  
 10 just looks like some notes where I was writing down  
 11 items. I know that, like, cash is -- there's only \$200  
 12 available under the homeowner's for cash, so I've got  
 13 cash here, \$200. At the bottom, it's got \$3,078.24;  
 14 but in the absence of any additional things, this is my  
 15 notes, but I don't know the exact amount.  
 16 Q Does it appear to be you were trying to  
 17 figure out what the maximum exposure could be?  
 18 A Could be. I don't really know. I just know  
 19 it's apparently something I was doing as part of  
 20 valuating the claim.  
 21 Q Do you know when you did that?  
 22 A There's no date on here, and I can't recall  
 23 the exact.  
 24 Q And when you say there's special limits, it  
 25 doesn't matter if he had had any amount of money more

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1 than \$200 in that car; 200 is all that would have ever  
 2 been covered?  
 3 A That's all that's covered under the  
 4 homeowner's coverage, yes, sir.  
 5 Q What is "ISO claim search"?  
 6 A That's -- if I can remember correctly, it's  
 7 Insurance Services Organization, and we go in and do a  
 8 claim search to -- it's similar to frequency tracking;  
 9 whereas, we see if there's any history. Also, we enter  
 10 the claims on that.  
 11 (WHEREUPON, Exhibit No. 75 was marked for  
 12 identification.)  
 13 Q (By Mr. Burge) And what is Exhibit 75?  
 14 A It looks like this is the initial entry that  
 15 that would have went to ISO from State Farm by the  
 16 claim central unit when the claim was set up.  
 17 (WHEREUPON, Exhibit No. 76 was marked for  
 18 identification.)  
 19 Q (By Mr. Burge) Let me show you what's marked  
 20 as Exhibit 76. Is this a letter that you were copied  
 21 with that Mr. Nix sent to Mr. Long?  
 22 A Yes, sir.  
 23 Q And you said that that -- you mentioned  
 24 earlier that misrepresentation that's mentioned in  
 25 there, is that concerning the contents of the car?

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1 MR. NEWMAN: Object to the form of the  
 2 question.  
 3 THE WITNESS: Repeat the question again,  
 4 I'm sorry. I'm sitting here looking at the  
 5 form.  
 6 Q (By Mr. Burge) The misrepresentation  
 7 language that's in there mentions there -- "we're  
 8 reserving our rights based on the potential for there  
 9 being misrepresentations." Do you know if that relates  
 10 to the contents that were in the car?  
 11 A Since it's under that policy number and claim  
 12 number for the homeowner's, yes, sir.  
 13 (WHEREUPON, Exhibit No. 77 was marked for  
 14 identification.)  
 15 Q (By Mr. Burge) And Exhibit 77, is that what  
 16 you mentioned earlier about being the receipt for the  
 17 clothes?  
 18 A Yes, sir.  
 19 (WHEREUPON, Exhibit No. 78 was marked for  
 20 identification.)  
 21 Q (By Mr. Burge) Exhibit 78, is this showing  
 22 that -- that claim was denied for concealed or  
 23 misrepresented facts?  
 24 A Correct.  
 25 Q What is the date of that?

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1 A June 29th, 2005.  
 2 Q Did you agree with the denial of that claim?  
 3 A Yes, I did.  
 4 Q And when did you recommend that that claim be  
 5 denied, on what day?  
 6 A I don't recall the exact day of my  
 7 recommendation.  
 8 Q Do you make a recommendation first to your  
 9 supervisor, Mr. Nix, and then he, in turn, makes a  
 10 recommendation to someone above him in authority and so  
 11 forth?  
 12 A We discussed the claim, Mr. -- my team  
 13 manager, Mr. Nix and I, we discussed the claim. And  
 14 it -- and at that point in time, I will complete a  
 15 draft of a recommendation, and then it goes to him; and  
 16 after that, it goes to -- a claim committee will hear  
 17 it next.  
 18 (WHEREUPON, Exhibit No. 79 was marked for  
 19 identification.)  
 20 Q (By Mr. Burge) Exhibit 79, did you have a  
 21 copy of this, which apparently relates to the hail  
 22 damage from -- this gentleman's -- to this gentleman's  
 23 house, and his statement that since he had been out of  
 24 work for some time, that he had spent the money to  
 25 repair the roof?

44 (Pages 173 to 176)

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1 MR. NEWMAN: Object to the form of the  
 2 question.  
 3 Q (By Mr. Burge) Or to pay bills rather than  
 4 repair the roof?  
 5 A I've never seen this document.  
 6 (WHEREUPON, Exhibit No. 80 was marked for  
 7 identification.)  
 8 Q (By Mr. Burge) Okay. Here's Exhibit 80. Do  
 9 you recognize that document? It's got your name at the  
 10 top. It's Bates stamped records relating to the  
 11 homeowner's claim file.  
 12 MR. NEWMAN: It looks like one of my  
 13 documents that we created. Probably  
 14 shouldn't have been produced to you.  
 15 THE WITNESS: That's not one of my  
 16 documents. I've never seen that before. Is  
 17 that yours?  
 18 MR. NEWMAN: Yeah.  
 19 Q (By Mr. Burge) When your friend's car was  
 20 stolen, did you see the golf clubs in it before it was  
 21 stolen?  
 22 A Yes, I did.  
 23 Q Okay. If you hadn't seen the golf clubs in  
 24 there and he had said I have had my car stolen and I  
 25 want to report the golf clubs under the homeowner's

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1 claim that had a homeowner's -- is this the first  
 2 homeowner's claim you ever handled?  
 3 A No.  
 4 Q Is it the first homeowner's claim you had  
 5 ever handled in connection with a theft of a car?  
 6 A No, not that I recall.  
 7 Q Is that common, that there are times when  
 8 you've handled those claims in connection with the  
 9 theft of a car?  
 10 A I can't speak for other people, but I have  
 11 done that before in the past.  
 12 Q And if it turns out that the -- on the  
 13 homeowner's portion of the claim that the insured  
 14 claims something was in the car that you do not believe  
 15 was in the car, it is your practice to deny the entire  
 16 homeowner's claim or just that -- for that article?  
 17 A I look at the -- all the facts associated  
 18 with the theft.  
 19 Q And then do you deny only the item that you  
 20 do not believe was in the car or do you deny the claim  
 21 in its entirety for the contents of the car?  
 22 A I don't deny.  
 23 Q Okay. Do you recommend that the claim be  
 24 paid up to the amount of the items without the item  
 25 that you don't believe was in the car, or do you

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1 policy and I want to recover for the car under my  
 2 automobile policy, would you treat that as one theft?  
 3 A I don't think he was insured with State Farm,  
 4 so I don't know how he would handle that and --  
 5 Q If an individual has a car that has some  
 6 contents in it, let's say they are golf clubs --  
 7 A Okay.  
 8 Q -- and that a person has both homeowner's and  
 9 automobile coverage, would it be common for them to  
 10 claim the loss of the golf clubs under the homeowner's  
 11 portion and then the loss or damage to the car under  
 12 the auto part?  
 13 A Once again, depending on their policy, I  
 14 guess I would have to see what their policy says and  
 15 how much is allowed for underneath their auto policy.  
 16 I'm -- I can't give you an exact answer there, I'm  
 17 sorry.  
 18 Q If I say that that there was -- the golf  
 19 clubs were worth enough that they were more than any  
 20 contents coverage that would have been associated with  
 21 the automobile policy, would it be common to have a  
 22 homeowner's claim and an auto claim?  
 23 A When you say "more," I'm sorry, you're losing  
 24 me. I'm -- I'm sorry.  
 25 Q Is this the first time you had ever handled a

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1 recommend that nothing be paid on the claim?  
 2 MR. NEWMAN: Object to the form of the  
 3 question.  
 4 THE WITNESS: I can't recall the outcome  
 5 of the other claims whereas it would have had  
 6 a -- two separate policies involved. I'm --  
 7 I'm telling you all I can speak for is on  
 8 this particular theft loss.  
 9 Q (By Mr. Burge) Have you ever, on a  
 10 homeowner's claim, told the insured I'm only going to  
 11 pay the claim for these particular items, and I'm not  
 12 going to pay the claim for those particular -- other  
 13 particular items because I don't believe these other  
 14 particular items were present?  
 15 MR. NEWMAN: Object to the form of the  
 16 question.  
 17 THE WITNESS: I guess the easiest way to  
 18 answer that is at what point in time; if  
 19 someone is misrepresenting information, how  
 20 do you know what is legitimate and how do you  
 21 know what is falsified?  
 22 Q (By Mr. Burge) And my question is: Have you  
 23 ever paid part of a claim but not another part of the  
 24 claim because you believe part of the items claimed  
 25 were not in the -- were not lost?

45 (Pages 177 to 180)

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1 MR. NEWMAN: Same objection.

2 THE WITNESS: If someone has  
 3 misrepresented facts of a claim and -- once  
 4 again, how do you know what part is  
 5 legitimate and how -- what part -- so to  
 6 answer your question, I don't recall paying a  
 7 partial amount.

8 Q (By Mr. Burge) If you find that a car was  
 9 stolen and you believe that the car was stolen, and the  
 10 insured also makes a homeowner's claim for personal  
 11 contents, and you don't believe that the personal  
 12 contents were in the car, have you ever paid the value  
 13 of the lost automobile and denied the homeowner's  
 14 claim, or do you just deny everything?

15 MR. NEWMAN: Same objection.

16 THE WITNESS: I don't recall prior  
 17 claims, the results, if they were -- I'm  
 18 sorry, I just don't recall the outcome.

19 Q (By Mr. Burge) Is auto theft a problem in  
 20 DeKalb County, as that fax cover sheet for the incident  
 21 report indicates?

22 A There is -- there is auto theft in DeKalb  
 23 County, yes, sir.

24 Q Have you ever read where auto theft chop  
 25 shops have been broken up in DeKalb County?

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1 A I can't recall if specifically in DeKalb  
 2 County, but I know that there is chop shops in all  
 3 states.

4 Q Have you read about chop shops in the Atlanta  
 5 metropolitan area?

6 A I've had -- yeah, I can't -- once again, I  
 7 can't recall the specifics of it, but I know that I  
 8 received notices from NICB, if I remember correctly, in  
 9 the past where they said something about a chop shop.

10 Q Have you ever received information about auto  
 11 thefts involving towing?

12 A What is your specific question regarding  
 13 towing?

14 Q Have you ever received any information of tow  
 15 trucks being used in auto theft?

16 A I've heard the discussion come up on, like,  
 17 high-end cars, like Mercedes and BMWs before, but I  
 18 can't recall the specific amount.

19 Q Did you make any reports to the police  
 20 relating to Mr. Long's claims?

21 A What do you mean police?

22 Q Did you call the DeKalb County police or  
 23 notify the DeKalb County police and say, "you know that  
 24 Corvette theft that Martin Long reported to you, well,  
 25 I'm the insurance adjustor for State Farm, and he made

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1 a claim under his automobile policy, and, you know, we  
 2 denied it because I think he stole his own car?"

3 Did you ever do anything that, in substance,  
 4 reported his claim to the police or your suspicion that  
 5 he was involved?

6 A No, sir. This is a civil matter, and this is  
 7 not a criminal matter.

8 Q Okay. But you -- auto theft is a serious  
 9 issue, isn't it?

10 A There is a lot of auto theft all over the  
 11 United States.

12 Q And but you didn't report Mr. Long to any  
 13 authority saying that he had stolen his own car?

14 A I made a referral to the National Insurance  
 15 Crime Bureau, the results of the investigation, and  
 16 which is under our guidelines, that's what I'm -- I'm  
 17 required to do.

18 Q And --

19 A But that's not a police.

20 MR. NEWMAN: He asked you about  
 21 police.

22 THE WITNESS: Police, then, no.

23 Q (By Mr. Burge) When did you publish to that  
 24 insurance group the findings of your investigation?

25 A I don't recall the specific date, but it

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1 would have been after a decision was -- was reached.

2 Q Is it not in your claim report?

3 A Do you have the other -- the auto report so I  
 4 can look through it? I'm sure it's under this.

5 Q I believe you've got it.

6 A There's nothing in the activity log, but I --  
 7 this is something -- I normally would not make an  
 8 activity log reflecting that I did that.

9 MR. BURGE: This is as good a time as  
 10 any for a break, if you-all want.

11 MR. NEWMAN: Okay.

12 (Whereupon, there was a brief recess.)

13 Q (By Mr. Burge) Are there any other records  
 14 that you've reviewed in this last week that we haven't  
 15 gone over, because I've gone over now the materials  
 16 that relate -- that you generated that were produced to  
 17 me. You mentioned there may be some photographs. Are  
 18 there anything else that you can think of?

19 A I'll -- I'll check -- on the photographs, but  
 20 I -- if they weren't produced to you, then apparently I  
 21 didn't get any. But I thought that -- the only other  
 22 thing I can -- that I looked at that I think would have  
 23 been produced to you was the examination under oath.

24 Q Did you ever talk to Felicia Flowers?

25 A No, I did not.

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- 1 Q Did anyone on your behalf ever speak to her?
- 2 A Not on my behalf, no, sir.
- 3 Q By the time the claims were denied, had you
- 4 had a chance to talk to everybody that you wanted to
- 5 talk to who had been on that trip to Atlanta when the
- 6 car was stolen?
- 7 A I never got an opportunity to speak with -- I
- 8 had attempted to speak with Sandy, and Sandy had not
- 9 called me back. But, you know, I had spoke to his
- 10 brother, which he didn't add anything of any relevance
- 11 to the investigation.
- 12 And at -- at some point in time, you can't
- 13 wait for -- for months for a witness to decide to call
- 14 you; you've got to move forward and -- and make a
- 15 decision based on the evidence that you gathered in
- 16 your investigation.
- 17 Q Did either of the Wares that you spoke to,
- 18 did they sound Jamaican to you?
- 19 A I can't exactly recall exactly how they
- 20 sound.
- 21 Q Do you remember reading where -- or do you
- 22 remember Ram telling you that the gentlemen who were
- 23 with Mr. Long sounded like they were Jamaican?
- 24 A I remember seeing that comment, yes, sir.
- 25 Q Do you have any doubt after your

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- 1 investigation that the gentlemen that were with
- 2 Mr. Long were the Ware brothers?
- 3 A I don't doubt that.
- 4 Q Is it y'all's responsibility, when a car is
- 5 recovered and you all put it in storage, to have it
- 6 evaluated to protect it against further damage from the
- 7 elements?
- 8 A I mean, we've -- not if it's -- in this
- 9 particular instance, the vehicle, in my opinion, was
- 10 a -- rendered a total loss, so what was there to
- 11 protect?
- 12 Q And when did you determine that, at least on
- 13 the automobile claim, the automobile policy claim, you
- 14 were dealing with a total loss?
- 15 A When I initially inspected the vehicle at Top
- 16 Cat, it had sit out through a -- a rain and sleet
- 17 storm. We don't have many snow and sleet storms in
- 18 this area, but we had snow that weekend or a few -- the
- 19 few days in advance. And when I initially inspected
- 20 the car, it was approximately four to six inches in
- 21 water. And from my experience dealing with cars that
- 22 have been submerged or had that much water in them,
- 23 there's a lot of electrical problems that result from
- 24 that. And it's better to total the vehicle.
- 25 Q Why did you have Mr. Bresnock evaluate the

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- 1 car more than once?
- 2 A Well, the -- the second inspection was
- 3 actually at the direction of my management.
- 4 Q You didn't think you needed it, but they did?
- 5 A They did, correct.
- 6 Q And how was that one supposed to be different
- 7 from the first one?
- 8 A Well, we had a question regarding the
- 9 actual -- what type of alarm system this vehicle had on
- 10 it. And Mr. Bresnock sent me a one-page report that
- 11 identified the type of alarm system; however -- and I
- 12 can't speak for management, but it was my understanding
- 13 that they felt like they needed him to do a
- 14 supplemental inspection.
- 15 Q If this kind of car is towed from the rear,
- 16 you said, you know, this is the kind of car you
- 17 mentioned it's so low to the ground, would there be
- 18 risk of the front bumper scraping if you tried to tow
- 19 it from the rear?
- 20 A I would say there would be risk of -- of the
- 21 vehicle scraping whether you tow it from the front or
- 22 the rear.
- 23 Q But if you towed it from the rear, it would
- 24 be the front that would scrape, would be my point?
- 25 A Yes, sir.

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- 1 Q Okay. Can this car be towed from the rear
- 2 without leaving skidmarks?
- 3 A I'm not sure.
- 4 Q Did you do any investigation to find out
- 5 during your evaluation of this claim?
- 6 A When you say "investigation," what do you
- 7 mean?
- 8 Q When you investigated this claim, you know,
- 9 between the time that it was assigned to you at SIU and
- 10 the time that you sent the letter to me saying that it
- 11 had been denied, at any point in time did you --
- 12 A I didn't send you that letter.
- 13 Q -- investigate to determine whether the case
- 14 had -- or whether or not the claim had been -- I mean,
- 15 the car could be towed without leaving skidmarks?
- 16 MR. NEWMAN: Object to the form of the
- 17 question.
- 18 THE WITNESS: I didn't specifically go
- 19 to a wrecker service and ask are -- is there
- 20 any way possible, because I knew the
- 21 vehicle -- there was evidence that the
- 22 vehicle had been towed and damaged, and there
- 23 was -- it was obvious in my mind it had been
- 24 towed at least two times, as well as possibly
- 25 other times within the wrecker yards. But

47 (Pages 185 to 188)



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1 from my understanding and experience on --  
 2 if -- just never mind.  
 3 Q (By Mr. Burge) Have you ever worked for a  
 4 tow company?  
 5 A No, I have not.  
 6 Q Has any of your training ever been for a tow  
 7 company?  
 8 A For a tow company?  
 9 Q Yeah. Has any of your training been --  
 10 A No.  
 11 Q -- involved towing?  
 12 A I've never trained with a tow company, but  
 13 I've seen a lot of vehicles towed.  
 14 Q Have you had any specialized training in what  
 15 to do when a -- or how to investigate a claim to  
 16 determine whether or not there has been a theft by  
 17 towing?  
 18 A I don't know if there's a school in the  
 19 United States that teaches that.  
 20 Q Okay. The letter that you sent to me was  
 21 saying here are the keys and here's where the car is.  
 22 A "We've attached one set of keys to the  
 23 vehicle provided by your client," correct.  
 24 Q And you had already spoken to my office, to  
 25 Jane?

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1 A If I recall from my log, you were not in, and  
 2 I spoke with Jane.  
 3 Q And that's a letter saying that, in  
 4 follow-up, that you had told her that the claim was  
 5 being denied?  
 6 A Correct, I do recall speaking with -- I think  
 7 it was Jane.  
 8 Q And do you recall telling her on June the  
 9 28th of 2005 that the claim was going to be denied and  
 10 that this gentleman was going to have only a limited  
 11 amount of time in which to pick up his car from the  
 12 storage facility?  
 13 A It's obvious, per my letter here, that we  
 14 said we would agree to pay for the fees associated with  
 15 the vehicle through July 1st, 2005 in the amount of  
 16 \$307. I can't recall the specific telling her that  
 17 date, but obviously, I have it in a letter to you.  
 18 Q How many automobile theft claims have you  
 19 denied?  
 20 A I can't recall exact numbers.  
 21 Q Dozens?  
 22 A I would say it's safe to say probably, in the  
 23 last nine years since I've been in SIU, probably  
 24 theft-related claims, not specific vehicle but  
 25 theft-related claims, probably a couple dozen.

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1 Q And is it fair to say that you denied a lot  
 2 more of them since you've been in SIU than you did  
 3 before you were in SIU?  
 4 A No, I handled a -- I handled auto-related  
 5 claims when I was in the regular line unit, and I  
 6 handled denials at that time also. I did  
 7 investigations at that time as well.  
 8 Q So over the years, you have denied dozens of  
 9 claims relating to the theft of automobiles?  
 10 A Not specific automobiles, but related to --  
 11 yeah, some automobiles, some contents.  
 12 Q And have others of these cases ended up in  
 13 court where you've testified?  
 14 A I don't think I've ever had one -- I think  
 15 this is the first -- there's been other suits filed but  
 16 never where I had to testify. If memory is serving  
 17 correctly, they withdrew before I ever was at the point  
 18 of testifying.  
 19 Q So on other occasions where you have denied a  
 20 claim --  
 21 A I -- can I take that back? I do -- I was  
 22 involved, I think, in a magistrate, one that was filed  
 23 in magistrate court where I was called to testify. And  
 24 we got a defense verdict, if I remember correctly on  
 25 that one, but that's been a few years ago.

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1 Q So by and large, when you deny a claim, State  
 2 Farm doesn't have to pay and doesn't hear -- doesn't  
 3 hear about the claim again, as far as you know?  
 4 A I disagree on that also.  
 5 Q Okay. I thought you said you denied dozens  
 6 of theft-related claims?  
 7 A Let me --  
 8 Q A couple of times --  
 9 A Can I elaborate on something?  
 10 Q Okay.  
 11 A Under our policy, if we denied claims and a  
 12 lien holder presents a claim following the denial, we  
 13 will honor a lien holder claim. So I have been  
 14 involved before in claims that resulted in a denial  
 15 where we ultimately paid the lien holder.  
 16 Q But in a case like this where there's no lien  
 17 holder -- you know, a lien holder would be like a bank  
 18 holding a note on a car?  
 19 A Yes, sir.  
 20 Q So if there had been a bank holding a note on  
 21 the car, Mr. Long didn't own the car outright, you  
 22 might have paid the lien off on the car?  
 23 A Well, there's other factors involved in that;  
 24 they have to repossess the vehicle, they have to  
 25 dispose of the salvages, other requirements under the

48 (Pages 189 to 192)

**MERRILL LEGAL SOLUTIONS**  
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1 policy for them to file that type of claim.  
 2 Q Do you know how far the car was driven, if it  
 3 was, in fact, ever driven when it left that lot?  
 4 A I know the -- the approximate distance from  
 5 the -- the area where it was recovered versus where he  
 6 had claimed he last saw the vehicle.  
 7 Q But if it was actually driven from that lot,  
 8 do you know how many miles it was driven?  
 9 A I don't have -- no.  
 10 Q Did Ram see Mr. Long in the parking lot that  
 11 night after Mr. Long parked the car and went upstairs  
 12 with Ms. Temple?  
 13 A I don't recall him saying he saw him in the  
 14 parking lot.  
 15 Q Did anybody, based on your investigation, see  
 16 Mr. Long after he parked that car and went upstairs  
 17 with Ms. Temple until it was discovered missing the  
 18 next day?  
 19 A Not that I can recall.  
 20 Q You just don't know who took that car, do  
 21 you?  
 22 A I just -- I suspect who took that car.  
 23 Q Okay. And you have suspicions, but you don't  
 24 have anyone with firsthand knowledge who says I know I  
 25 saw this man take this car at this time; you don't have

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1 any information like that?  
 2 A I don't know specifically who last drove the  
 3 car.  
 4 Q Or when it was last driven?  
 5 A Or when it was last driven.  
 6 MR. BURGE: I think that's all I have.  
 7 Thank you.  
 8 MR. NEWMAN: Stay here, I'm going to  
 9 speak with Tommy for a minute.  
 10 (Whereupon, there was a brief recess.)  
 11 (Deposition concluded at 3:11 p.m.)  
 12 -oOo-

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1 CERTIFICATE  
 2 STATE OF GEORGIA:  
 3 COUNTY OF FULTON:  
 4  
 5 I HEREBY CERTIFY that the foregoing  
 6 deposition was taken down by me in stenotype, and the  
 7 questions and answers thereto were transcribed by means  
 8 of computer-aided transcription, and that the foregoing  
 9 represents a true and correct transcript of the  
 10 testimony given by said witness.  
 11  
 12 I FURTHER CERTIFY that I am not kin or  
 13 counsel to the parties in the case; am not in the  
 14 regular employ of counsel for any of said parties; nor  
 15 am I in any way financially interested in the result of  
 16 said case.  
 17  
 18  
 19 SHARON A. GABRIELLI, RPR  
 20 CCR-B-2002  
 21  
 22  
 23  
 24  
 25

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1 TODD SMITH  
 2  
 3 INSTRUCTIONS TO THE WITNESS  
 4  
 5 PLEASE READ YOUR DEPOSITION OVER CAREFULLY  
 6 BEFORE YOU SIGN IT. YOU SHOULD MAKE ALL YOUR CHANGES  
 7 ON THE ATTACHED ERRATA SHEET. PLEASE DO NOT MARK ON  
 8 THE ORIGINAL DEPOSITION.  
 9 AFTER MAKING ANY CHANGES WHICH YOU HAVE NOTED  
 10 ON THE ATTACHED ERRATA SHEET, SIGN YOUR NAME ON THE  
 11 ERRATA SHEET AND DATE IT.  
 12 THEN SIGN YOUR DEPOSITION AT THE END OF YOUR  
 13 TESTIMONY IN THE SPACE PROVIDED. YOU ARE SIGNING IT  
 14 SUBJECT TO THE CHANGES YOU HAVE MADE ON THE ERRATA  
 15 SHEET, WHICH WILL BE ATTACHED TO THE DEPOSITION.  
 16 RETURN THE ORIGINAL ERRATA SHEET AND  
 17 TRANSCRIPT TO MERRILL LEGAL SOLUTIONS, 1201 PEACHTREE  
 18 STREET, N.E., SUITE 200, GEORGIA 30361.  
 19 ACCORDING TO THE RULES OF CIVIL PROCEDURE,  
 20 YOU WILL HAVE THIRTY (30) DAYS FROM THE DATE YOU  
 21 RECEIVE THIS DEPOSITION IN WHICH TO READ, SIGN AND  
 22 RETURN YOUR DEPOSITION TO THE ABOVE OFFICE. IF YOU  
 23 FAIL TO DO SO, YOU AUTOMATICALLY WAIVE YOUR RIGHT TO  
 24 MAKE ANY CORRECTIONS TO YOUR DEPOSITION.  
 25 PURSUANT TO RULE 30(E) OF THE FEDERAL RULES  
 OF CIVIL PROCEDURE AND/OR THE OFFICIAL CODE OF GEORGIA  
 ANNOTATED 9-11-30(E), BOTH OF WHICH READ IN PART: ANY  
 CHANGES IN FORM OR SUBSTANCE WHICH YOU DESIRE TO MAKE  
 SHALL BE ENTERED UPON THE DEPOSITION...WITH A STATEMENT  
 OF THE REASONS GIVEN...FOR MAKING THEM. ACCORDINGLY,  
 TO ASSIST YOU IN EFFECTING CORRECTIONS, PLEASE USE THE  
 FORM BELOW:  
 18  
 19 PAGE LINE EXPLANATION  
 20 \_\_\_\_\_  
 21 \_\_\_\_\_  
 22 \_\_\_\_\_  
 23 \_\_\_\_\_  
 24 \_\_\_\_\_  
 25 \_\_\_\_\_

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1 PAGE LINE EXPLANATION

2 \_\_\_\_\_  
 3 \_\_\_\_\_  
 4 \_\_\_\_\_  
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 22 \_\_\_\_\_  
 23 \_\_\_\_\_

DEPONENT'S SIGNATURE \_\_\_\_\_

24 \_\_\_\_\_  
 25 DATE \_\_\_\_\_

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1  
 2 SIGNATURE PAGE OF WITNESS  
 3  
 4  
 5

I HEREBY ACKNOWLEDGE THAT I HAVE READ THE FOREGOING  
 6 DEPOSITION AND THAT THE SAME IS A TRUE AND CORRECT  
 TRANSCRIPTION OF THE ANSWERS GIVEN BY ME TO THE  
 7 QUESTIONS PROPOUNDED, EXCEPT FOR THE CHANGES, IF ANY,  
 NOTED ON THE ATTACHED ERRATA SHEET.

8  
 9  
 10  
 11  
 12  
 13 SIGNATURE: \_\_\_\_\_  
 14

SWORN TO AND SUBSCRIBED BEFORE ME,  
 15 THIS THE DAY OF 2007.  
 NOTARY PUBLIC  
 16 MY COMMISSION EXPIRES:  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

50 (Pages 197 to 198)

**RICKY WARE**

<p>1 IN THE UNITED STATES DISTRICT COURT</p> <p>2 FOR THE MIDDLE DISTRICT OF ALABAMA</p> <p>3 NORTHERN DIVISION</p> <p>4 CASE NO.: 2:06cv816-MHT</p> <p>5</p> <p>6 MARTIN O. LONG,</p> <p>7 Plaintiff,</p> <p>8 V.</p> <p>9 STATE FARM FIRE AND CASUALTY COMPANY,</p> <p>10 Defendants.</p> <p>11</p> <p>12</p> <p>13 STIPULATIONS</p> <p>14</p> <p>15</p> <p>16 IT IS STIPULATED AND AGREED by and</p> <p>17 between the parties, through their respective</p> <p>18 counsel, that the deposition of RICKY WARE may</p> <p>19 be taken before STACEY L. JOHNSON, Commissioner,</p> <p>20 at the Offices of Beers, Anderson, Jackson,</p> <p>21 Patty, Van Heest &amp; Fawal, 250 Commerce Street,</p> <p>22 Suite 100, Montgomery, Alabama, on the 27th day</p> <p>23 of March, 2007.</p> <p style="text-align: right;">Page 1</p>	<p>1 EXAMINATION BY: PAGE NUMBER:</p> <p>2 Mr. Newman.....5-24</p> <p>3 Mr. Burge.....25-26</p> <p>4 Mr. Newman.....26</p> <p>5</p> <p>6 EXHIBITS:</p> <p>7 There were no exhibits marked to this</p> <p>8 deposition.</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p style="text-align: right;">Page 3</p>
<p>1 IT IS FURTHER STIPULATED AND AGREED</p> <p>2 that the signature to and the reading of the</p> <p>3 deposition by the witness is hereby waived, the</p> <p>4 deposition to have the same force and effect as</p> <p>5 if full compliance had been had with all laws</p> <p>6 and rules of Court relating to the taking of</p> <p>7 depositions.</p> <p>8 IT IS FURTHER STIPULATED AND AGREED</p> <p>9 that it shall not be necessary for any</p> <p>10 objections to be made by counsel to any</p> <p>11 questions except as to form or leading</p> <p>12 questions, and that counsel for the parties may</p> <p>13 make objections and assign grounds at the time</p> <p>14 of trial, or at the time said deposition is</p> <p>15 offered in evidence, or prior thereto.</p> <p>16 IT IS FURTHER STIPULATED AND AGREED</p> <p>17 that the notice of filing of the deposition by</p> <p>18 the Commissioner is waived.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 INDEX</p> <p style="text-align: right;">Page 2</p>	<p>1 APPEARANCES</p> <p>2 FOR THE PLAINTIFF, MARTIN O. LONG:</p> <p>3 BURGE &amp; BURGE</p> <p>3 F. Tucker Burge</p> <p>4 2001 Park Place North</p> <p>4 Suite 850</p> <p>5 Birmingham, Alabama 35203</p> <p>5</p> <p>6</p> <p>7 FOR THE DEFENDANT, STATE FARM FIRE AND CASUALTY</p> <p>8 COMPANY:</p> <p>9 HELMSING, LEACH, HERLONG, NEWMAN &amp; ROUSE</p> <p>9 James B. Newman</p> <p>10 (NEWMJ8049)</p> <p>10 jbn@helmsinglaw.com</p> <p>11 150 Government Street</p> <p>11 Suite 2000</p> <p>12 Mobile, Alabama 36602</p> <p>12 (251) 432-5521</p> <p>13</p> <p>14 ALSO PRESENT:</p> <p>15 MR. MARTIN O. LONG</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p style="text-align: right;">Page 4</p>



**RICKY WARE**

1 I, STACEY L. JOHNSON, a CSR of Montgomery,  
 2 Alabama, and Notary Public for the State of  
 3 Alabama at Large, acting as Commissioner,  
 4 certify that on this date, as provided by the  
 5 Federal Rules of Civil Procedure and the  
 6 foregoing stipulation of counsel, there came  
 7 before me at 250 Commerce Street, Suite 100,  
 8 Montgomery, Alabama, beginning at 3:09 p.m.,  
 9 RICKY WARE, witness in the above cause, for oral  
 10 examination, whereupon the following proceedings  
 11 were had:

12 RICKY WARE,  
 13 the witness, after having been first duly sworn  
 14 to speak the truth, the whole truth, and nothing  
 15 but the truth, testified as follows:

16 EXAMINATION

17 BY MR. NEWMAN:

18 Q You are Ricky Ware; right?

19 A Yes.

20 Q And, Ricky, my name is Jim Newman, and  
 21 I'll be asking you some questions today. It  
 22 shouldn't be long.

23 A Okay.

Page 5

1 Q How long have you been employed by  
 2 them?

3 A Nine years.

4 Q Okay. And where do you live?

5 A Edna Brake Lucas Drive, Montgomery,  
 6 Alabama.

7 Q Are you married?

8 A Yes.

9 Q How long have you been married?

10 A Eight years, I believe.

11 Q Okay. And what's your wife's name?

12 A Brenda Ware.

13 Q Do y'all have any children?

14 A Yeah, we have two kids.

15 Q Okay. Did you go to high school around  
 16 here?

17 A Yes.

18 Q Where did you go?

19 A Robert E. Lee High School.

20 Q Did you go to any schooling after high  
 21 school?

22 A Yes, I did. Well, I went off to the  
 23 military first, joined the military. Did that

Page 7

1 Q And if you don't understand any of my  
 2 questions, I would ask you that you stop me and  
 3 ask me to rephrase them or to state them in a  
 4 another way so that you'll understand them.  
 5 Okay?

6 A Okay.

7 Q All right. If you answer them, I'm  
 8 going to assume that you understood what I  
 9 asked.

10 A Okay.

11 Q Now, when we take these depositions --  
 12 I think you're going to be good at this -- but  
 13 sometimes people have a tendency to say uh-huh  
 14 and huh-uh instead of yes and no and it's hard  
 15 for her to take down anything but a yes and no  
 16 or a right or whatever, so let's try to -- if we  
 17 can. I'll help you with it because I do it,  
 18 too.

19 A Yes. Okay.

20 Q Would you state your name, please?

21 A Ricky L. Ware.

22 Q And how are you employed?

23 A With the U.S. Postal Service.

Page 6

1 for four years, the Marine Corps. I came back  
 2 and I started Trenholm. I went to Trenholm  
 3 Technical College.

4 Q How long were you at Trenholm?

5 A Like for a year and a half.

6 Q What did you take there?

7 A Horticulture.

8 Q And that somehow got you to the post  
 9 office, huh?

10 A No, not at all.

11 Q If you've been a veteran, you get a  
 12 preference for the civil service like the post  
 13 office?

14 A Right. You're on a different scale  
 15 than everybody else when they start hiring.

16 Q Right. So you were able to get with  
 17 the post office?

18 A Pretty quickly.

19 Q And where were you when you were in the  
 20 Marine Corps?

21 A I was stationed in Yuma, Arizona. Also  
 22 stationed Japan.

23 Q And what did you do in the Marine

Page 8

2 (Pages 5 to 8)

**RICKY WARE**

1 **Corps?**  
 2 A Aircraft mechanic. I worked on the  
 3 AVAB harrier.  
 4 **Q That's the one that goes straight up**  
 5 **and down?**  
 6 A Right.  
 7 **Q You miss it?**  
 8 A Well, sometimes.  
 9 **Q You liked the Marines?**  
 10 A I got out because I had a baby, thought  
 11 it was the thing to do at the time getting out,  
 12 supporting my -- instead of being deployed. But  
 13 I do miss it.  
 14 **Q What was your rank when you got out?**  
 15 A Corporal, E4.  
 16 **Q Okay. E4. And you were honorably**  
 17 **discharged?**  
 18 A Yes.  
 19 **Q And have you ever been in any lawsuits**  
 20 **before?**  
 21 A No.  
 22 **Q Where you've been either the person**  
 23 **suing or the person being sued?**

Page 9

1 A No.  
 2 **Q And you've never been convicted of a**  
 3 **crime?**  
 4 A No.  
 5 **Q You are the brother of Valerie Ware?**  
 6 A Valerie Ware Temple.  
 7 **Q And you're the brother of Sandy Ware?**  
 8 A Correct.  
 9 **Q And you're the brother of Donald Ware?**  
 10 A Yes.  
 11 **Q Okay. Are there any other Wares?**  
 12 A Yes. I have two more brothers. One of  
 13 them, he just retired from the Marine Corps.  
 14 He's in, I think, Virginia right now. I have  
 15 another brother right here in Montgomery.  
 16 There's like five boys and one girl.  
 17 **Q And Donald lives in Atlanta?**  
 18 A In Atlanta. Correct. The youngest.  
 19 **Q And on this weekend we're talking**  
 20 **about, February the 18th, 19th, and 20th of**  
 21 **2005, you and Sandy were going over with Martin**  
 22 **and Valerie to visit Donald?**  
 23 A Right.

Page 10

1 **Q And did you drive your own car over?**  
 2 A Yes, I drove my own car.  
 3 **Q Did you have anybody in the car with**  
 4 **you?**  
 5 A Yes.  
 6 **Q Who?**  
 7 A A girl named Felicia.  
 8 **Q Felicia. Was Felicia your girlfriend?**  
 9 A Yes, pretty much.  
 10 **Q Is she still?**  
 11 A No. We talk time to time. You know, I  
 12 do see her but I can't say girlfriend. That's  
 13 not a good word for it.  
 14 **Q All right. She was in the car with**  
 15 **you, then?**  
 16 A Right.  
 17 **Q And was Sandy in the car by himself?**  
 18 A Yes.  
 19 **Q Okay. And what kind of car did you**  
 20 **drive over there?**  
 21 A Drove my Lincoln Navigator.  
 22 **Q Okay. Now, did you know Martin Long?**  
 23 A Well, I knew him through my sister from

Page 11

1 time to time.  
 2 **Q Okay.**  
 3 A You know, I think I met him like once  
 4 or twice.  
 5 **Q Were you aware whether Martin and**  
 6 **Valerie had ever gone to the Atlanta area before**  
 7 **to visit Donald?**  
 8 A No, I don't think so. I don't think  
 9 so.  
 10 **Q You don't know one way or another?**  
 11 A No.  
 12 **Q You don't know?**  
 13 A I don't think so. I don't think they  
 14 ever went over there.  
 15 **Q Had you ever gone over --**  
 16 A Right.  
 17 **Q -- to Atlanta with Valerie and Martin**  
 18 **to visit Donald?**  
 19 A I think this was --  
 20 **Q Before this one time?**  
 21 A No. I think it was our first time.  
 22 Was it our first time? I think it was our first  
 23 time. It was our first time going. It was our

Page 12

3 (Pages 9 to 12)

## RICKY WARE

<p>1 first time. Right.</p> <p>2 <b>Q Okay. You don't remember ever going</b></p> <p>3 <b>over there before and staying at Donald's house?</b></p> <p>4 A Not with Martin. Me and Felicia stayed</p> <p>5 at my brother's house several times.</p> <p>6 <b>Q How about with Martin and --</b></p> <p>7 A No.</p> <p>8 <b>Q -- Valerie?</b></p> <p>9 A No.</p> <p>10 <b>Q Okay. So your recollection is that you</b></p> <p>11 <b>and Martin had never been in the Atlanta area</b></p> <p>12 <b>together with Donald before?</b></p> <p>13 A Correct.</p> <p>14 <b>Q Okay. This was the only time?</b></p> <p>15 A Only time. I had to think about it for</p> <p>16 a minute.</p> <p>17 <b>Q Okay. But you and Felicia had been</b></p> <p>18 <b>over there?</b></p> <p>19 A Right. Several times.</p> <p>20 <b>Q And stayed with Donald?</b></p> <p>21 A Stayed with Donald, hotel room.</p> <p>22 Several times.</p> <p>23 <b>Q Now, on this particular occasion, y'all</b></p> <p style="text-align: right;">Page 13</p>	<p>1 <b>having -- whether y'all ate together or what</b></p> <p>2 <b>happened?</b></p> <p>3 A Okay. We went out -- we ate first. We</p> <p>4 all ate together. Then we went back to my</p> <p>5 brother's house.</p> <p>6 <b>Q Okay.</b></p> <p>7 A And then me and Felicia and my brother</p> <p>8 said we was going out.</p> <p>9 <b>Q You and Sandy and Felicia?</b></p> <p>10 A Right. Said we were going out. I</p> <p>11 don't think Martin and my -- I don't think they</p> <p>12 went out that night. I don't think so.</p> <p>13 <b>Q So your best recollection now is that</b></p> <p>14 <b>you and Sandy and Felicia went out together and</b></p> <p>15 <b>maybe and Valerie and Martin went back?</b></p> <p>16 A Right. Went back to the room.</p> <p>17 <b>Q Okay. What time did y'all get in?</b></p> <p>18 A I want to say around about three or</p> <p>19 four in the morning.</p> <p>20 <b>Q Pretty late?</b></p> <p>21 A It was pretty late in the morning.</p> <p>22 <b>Q When you came in, did you notice one</b></p> <p>23 <b>way or another whether Martin's car was there?</b></p> <p style="text-align: right;">Page 15</p>
<p>1 <b>were staying at a hotel?</b></p> <p>2 A Correct.</p> <p>3 <b>Q Country Hearth or something like that?</b></p> <p>4 A I forgot the name of it, but it's like</p> <p>5 maybe two minutes from my brother's house, two</p> <p>6 or three minutes.</p> <p>7 <b>Q It's on the highway? It's in Lithonia;</b></p> <p>8 <b>right?</b></p> <p>9 A Correct.</p> <p>10 <b>Q When you got to the hotel, did y'all</b></p> <p>11 <b>check in first?</b></p> <p>12 A Did we check in? No. I think we went</p> <p>13 to my brother's -- how did that happen? It's</p> <p>14 been a while back. Did we go and check in</p> <p>15 first, or did we go to my brother's house? I'm</p> <p>16 not sure. I really don't know.</p> <p>17 <b>Q Well, at some point, you checked in,</b></p> <p>18 <b>didn't you?</b></p> <p>19 A Right.</p> <p>20 <b>Q And that night, Friday night, you did</b></p> <p>21 <b>go over to your brother's house?</b></p> <p>22 A Correct.</p> <p>23 <b>Q And did you -- do you remember</b></p> <p style="text-align: right;">Page 14</p>	<p>1 A No.</p> <p>2 <b>Q So you didn't see it or not see it?</b></p> <p>3 A I didn't see it. Wasn't even thinking</p> <p>4 about it or anything.</p> <p>5 <b>Q Okay.</b></p> <p>6 A But I know they didn't go out with us.</p> <p>7 I do know that.</p> <p>8 <b>Q You do know they didn't go out?</b></p> <p>9 A They didn't go out.</p> <p>10 <b>Q But when you came in, you don't</b></p> <p>11 <b>remember seeing his car?</b></p> <p>12 A No.</p> <p>13 <b>Q But you don't remember not seeing his</b></p> <p>14 <b>car?</b></p> <p>15 A Not seeing his car either.</p> <p>16 <b>Q You just weren't paying any attention?</b></p> <p>17 A Wasn't paying no attention at all.</p> <p>18 <b>Q Okay. Tell me when you first found out</b></p> <p>19 <b>that the car was missing.</b></p> <p>20 A Felicia got up early in the morning,</p> <p>21 and the Wal-Mart was pretty much right across</p> <p>22 the street from the hotel room and she went to</p> <p>23 Wal-Mart. As a matter of fact, I didn't even</p> <p style="text-align: right;">Page 16</p>

## RICKY WARE

1 know she was going to Wal-Mart. When she came  
2 back, I think she called my sister. My sister  
3 ran out of the hotel room knocking on my door  
4 boom, boom, boom early in the morning. Ricky,  
5 somebody stole Martin's car; it's not out  
6 there. So I jumped up, threw on some clothes,  
7 and ran downstairs.

8 **Q Okay. You didn't even know Felicia had**  
9 **gone?**

10 A I didn't know she had gone.

11 **Q You were sound asleep?**

12 A Right. Sound asleep.

13 **Q Okay. And so the first thing you knew**  
14 **about it was when Valerie knocked on your door?**

15 A Knocked on the door.

16 **Q And then what did you do?**

17 A I jumped up, put on clothes, and I ran  
18 downstairs to see what was going on. And sure  
19 enough, the car was gone. I'm looking like --  
20 even though it was gone, you could see glass  
21 right there. I didn't know he was parked  
22 there.

23 **Q Okay. What did you do then?**

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1 A It was puzzling to me because we  
2 looked -- man, I can't believe -- everybody was  
3 in shock. I know this didn't happen. It was  
4 like a -- one time looked -- went looking  
5 through parking lot. And we looked across the  
6 street at Wal-Mart and we were like, hey, there  
7 go the car right over there, but we looked  
8 closer and it wasn't it. So we talked to the  
9 hotel clerk at the desk. I forgot who called  
10 the police. I know I didn't call the police.

11 **Q You know you did not?**

12 A I didn't. I did not call the police.  
13 And just so happened -- the camera, we asked --  
14 there go the camera. I don't know who pointed  
15 out the camera.

16 **Q Did somebody point out the camera that**  
17 **morning?**

18 A Right. We seen the camera was right  
19 there. I'm not sure who pointed it out. I  
20 think my brother did or Martin. I'm not sure.  
21 But the camera was aimed dead at his car. Just  
22 so happened the camera was aimed dead at his  
23 car. So we were like, well, that's a good

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1 thing. Just get with the hotel clerk and they  
2 will be able to pull the film and we can see who  
3 stole it or whatever. And they was like, well,  
4 the film wasn't in there, it wasn't on. And the  
5 first thing I'm thinking, Martin, I think they  
6 had something to do with it.

7 **Q There was some confusion about the**  
8 **film?**

9 A Right.

10 **Q And y'all -- you or somebody --**  
11 **speculated that perhaps they had something to do**  
12 **with it?**

13 A That was me. I speculated on that. It  
14 was a young guy. And watching The Fast and The  
15 Furious, that's the kind of cars they like.

16 **Q Okay. And you weren't the one who**  
17 **called the police?**

18 A No, I didn't call the police.

19 **Q Did you ever talk to the police?**

20 A No, I didn't.

21 **Q Did you ever talk to the insurance**  
22 **company?**

23 A No, I didn't.

Page 19

1 **Q Did anyone from the insurance company**  
2 **ever call you?**

3 A No, I don't think so.

4 **Q Okay. Have you talked to Mr. Burge**  
5 **before?**

6 A Right. I think so.

7 **Q When did you talk to him?**

8 A It was last week or this week, I  
9 believe.

10 **Q Fairly recent?**

11 A Yeah.

12 **Q Okay. What did y'all talk about?**

13 A I think the meeting was going to be  
14 here, I believe. He asked me, I think, about my  
15 brother's address, asked me for brother's  
16 telephone number.

17 THE WITNESS: Is that right?

18 **Q He can't tell you.**

19 A I think he asked me for my brother's  
20 telephone number, best way to get in touch with  
21 my brother. I give him the number.

22 **Q Did y'all talk about what happened over**  
23 **there in Atlanta on that weekend?**

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5 (Pages 17 to 20)



## RICKY WARE

1 A No, I don't think so. I don't think  
2 so. No, we didn't. We didn't.  
3 Q Okay. Have you talked to -- other than  
4 your brothers Donald and Sandy, your sister  
5 Valerie, Felicia, have you talked to anyone else  
6 about that weekend?  
7 A No.  
8 Q Okay. When you've talked to them, have  
9 y'all just talked generally about the fact that  
10 the car wasn't there, the car was missing, the  
11 car was stolen or whatever?  
12 A Recently?  
13 Q No. At any time. Or have y'all tried  
14 to go back and put together exactly what  
15 happened?  
16 A Well, I would say when it first  
17 happened, I called my sister, y'all heard  
18 anything about Martin's car? What is what? But  
19 until now, maybe a year, I've forgot all about  
20 it. I didn't think anything about it.  
21 Q Have you seen Martin since that  
22 weekend?  
23 A I think I seen Martin walking out of

Page 21

1 Wal-Mart. Well, we was inside Wal-Mart. But I  
2 wasn't sure is that Martin or not. So I didn't  
3 say anything too tough.  
4 Q I'm talking ever since February of 2005  
5 until today?  
6 A And I think I seen him at my sister's  
7 job. I seen his car parked outside my sister's  
8 job. I knew he was in there, so I just kept on  
9 going.  
10 Q Have you had any --  
11 A Conversations, no.  
12 Q -- conversations, Ricky? Have you had  
13 any conversations with him?  
14 A No.  
15 Q Okay.  
16 A You know, I asked my sister have y'all  
17 heard anything about Martin's car.  
18 Q Have you ever talked to Martin about  
19 what he had in the car that night?  
20 A Yes, I did.  
21 Q When?  
22 A That same night.  
23 Q This same time it was stolen?

Page 22

1 A Uh-huh.  
2 Q What did you talk about?  
3 A I know he say he had his gun in there.  
4 Q Anything else?  
5 A And he made a comment about he had a  
6 brand new pair of shoes he had never worn  
7 before, and we made a joke like, well, you'll  
8 never wear them shoes. I think that's about all  
9 I can remember, his gun and his shoes.  
10 Q Okay. Did you say anything about  
11 reporting that to the insurance company?  
12 A No, no. It was a nice car.  
13 Q What kind of car was it that Martin  
14 had?  
15 A I want to say a Corvette.  
16 Q Had you ever ridden in it?  
17 A No.  
18 Q Going over there, did you follow it or  
19 did it follow you?  
20 A Well, pretty much back and forth,  
21 pretty much back and forth.  
22 Q Okay.  
23 A I never seen anything like that happen

Page 23

1 before.  
2 Q What's that?  
3 A A car getting stolen like that. I  
4 never seen anything like that happen before.  
5 Never witnessed or seen anything like that  
6 happen before. You see it on TV and hear about  
7 it, but to be right there.  
8 Q Did he say anything about it having an  
9 alarm on it? Do you remember anything like  
10 that?  
11 A No, he didn't say anything.  
12 Q Okay.  
13 A See, when you from the country, you  
14 don't think people do that. I've lived in the  
15 country all my life, so I'm not a city boy.  
16 Q I thought you lived in Montgomery?  
17 A That's pretty much -- that's the  
18 country.  
19 Q Where you live is in the outskirts?  
20 A Right. Maybe like three minutes from  
21 the city limits.  
22 MR. NEWMAN: Okay. All right. That's  
23 all I've got. I appreciate you coming in.

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6 (Pages 21 to 24)

**RICKY WARE****EXAMINATION**

BY MR. BURGE:

**Q** You and I spoke a number of months ago on the phone, and I did not speak to you last week. Did somebody call you up last week trying to get in touch with --

**A** With my brother. Right.

**Q** I wonder if it was the process server. Were you served with a subpoena for this?

**A** I was served with a subpoena -- they give it to my sister and my sister give it to me.

**Q** Okay.

**A** But I talked with somebody in -- I know it was dealing with this. They said they was trying to get into contact with my brother and give them numbers.

**Q** On the morning that this happened, did Martin appear to be upset?

**A** Yes.

MR. BURGE: Thank you.

**A** But, you know, he was upset but not as upset as I would have thought he would be. He

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**CERTIFICATE**

STATE OF ALABAMA )

COUNTY OF MONTGOMERY )

I hereby certify that the above and foregoing deposition was taken down by me in stenotype, and the questions and answers thereto were transcribed by means of computer-aided transcription, and that the foregoing represents a true and accurate transcript of the testimony given by said witness upon said hearing.

I further certify that I am neither of counsel, nor kin to the parties to the action, nor am I in anywise interested in the result of said cause.

-----  
STACEY L. JOHNSON, Certified  
Shorthand Reporter and  
Commissioner for the State of  
Alabama at Large.

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was upset, but he kept his cool. He wasn't yelling. He kept his cool, but he was upset.

**Q** Did the police come?

**A** Yeah. They came later. It took them a while to get there.

**FURTHER EXAMINATION**

BY MR. NEWMAN:

**Q** Did you talk to the police when they came?

**A** No, I didn't.

MR. NEWMAN: All right. Thanks a lot.

FURTHER DEPONENT SAITH NOT

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7 (Pages 25 to 27)

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

MARTIN O. LONG,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. 2:06CV816-MHT
	)	
STATE FARM FIRE AND CASUALTY	)	
COMPANY,	)	
	)	
Defendant.	)	

STATE OF GEORGIA

\_\_\_\_\_ COUNTY

**AFFIDAVIT OF ROBERT J. SHARP**

Before me, the undersigned for said County and in said State, personally appeared Robert J. Sharp, who is known to me and who, after first being duly sworn, deposes and says:

My name is Robert J. Sharp. I am over the age of 21. I have personal knowledge of the facts contained in this affidavit. I am aware that this affidavit is being submitted in opposition to State Farm's Motion for Summary Judgment in the above-styled case.

**Qualifications and Experience:**

My curriculum vitae is attached as Exhibit 1. The experience and qualifications set forth on the curriculum vitae are accurately recited. Among other things, I have had oversight responsibility for over 260 insurance industry employees, 20,000 claim files and 3,000 litigated files during my tenure in the insurance industry. I have familiarity with the customs and practices in the insurance industry for handling claims and denial of claims. I have taught on the subject of casualty claim handling and have managed a special investigative unit for an insurance company. My work experience includes handling first party insurance claims relating to claims for stolen automobiles. During my career in the insurance industry, I have personally handled and supervised thousands of property and casualty claims. I have been personally involved in

estimating claim damages, claim coverages, denials and procedures. I have served as an instructor in claims training and insurance procedures classes. I am familiar with insurance regulations and practices. I am familiar with proper insurance industry standards and procedures for handling property and casualty claims. I am familiar with the custom and practices in the insurance industry for investigating and handling of property and casualty claims, including litigated issues. I have chaired instructional seminars for the Property Loss Research Bureau and the National Association of Mutual Insurance Companies. I have served as a law committee member for the National Association of Independent Insurers. I have served as an instructor and presented seminars at the National Association of Arson Investigators and International Association of Arson Investigators as well as for state and local claims organizations.

I have been designated in approximately 30 cases in the last two years as an expert to testify on the issues of insurance industry claims practices and handling. In addition, I have qualified to testify at trial as an expert witness and testified on insurance industry claims practices and handling approximately 25 times during my career in the insurance industry. A list of the case in which I have given trial or deposition testimony in the last three years is attached as Exhibit 2. In addition, I testified concerning insurance claims practices and claims decisions on numerous occasions on behalf of the insurance companies that I worked for during my career in handling insurance claims while employed with insurance companies.

#### **Materials Reviewed:**

I have been retained by the law firm of Burge & Burge to evaluate State Farm's handling of two claims that Martin Long filed concerning the loss of his 2000 Chevrolet Corvette on February 19, 2000. I have reviewed the following:

- Complaint
- Answer
- Plaintiff's interrogatory answers
- Defendant's interrogatory answers
- Claim file for claim number 01-6596-564 (SF1 00001 through SF1 00831)
- Claim file for claim number 01-Q177-057 (SF2 00001 through SF2 00119)
- State Farm Auto Claim manual and claim operation guides (SF1 0001 - P through 0107 - P)
- Documents concerning policy 01-CW-7517-0 (SF-H 001 through SF-H 058)
- Documents concerning policy 886750-B04-01 (SF-A 001 through SF-A 027)
- Code of Alabama, 1975, § 27-14-28
- Deposition of Martin Long
- Deposition of Todd Smith
- Deposition of Tony Nix
- Scene photographs of hotel parking lot
- Expert disclosures of Donal O'Shaughnessy



**Factual Background:**

From my review of the materials listed above, I learned the following facts that are relevant to my opinions in this case.

1. On February 4, 2005 Martin Long purchased a 2000 Chevrolet Corvette from City Auto Sales. Long paid for the car in full. Specifically, he paid the \$25,000.00 purchase price at the time of the sale and there were no bank liens on the car or other encumbrances whatsoever.

2. Martin Long purchased an automobile policy covering this Corvette from State Farm Fire & Casualty Company. Long paid State Farm a \$637.32 premium payment for full coverage on the Corvette from February 4 to August 4, 2005. The policy that State Farm issued on the Corvette was policy number 88 6750-B04-01.

3. Martin Long improved the 2000 Chevrolet Corvette from the time that he bought it up until the time that he last saw the car before it was stolen. Long replaced the tires, rims, a tie-rod and added other accessories to the car. He produced receipts to State Farm for the work performed by Big 10 Tires. These receipts totaled \$1,572.14 and reflect that the last work done by Big 10 Tires on this car was performed on February 18, 2005.

4. On February 18, 2005, Long drove his Corvette from Montgomery to Lithonia, Georgia, to spend the weekend at the Country Inn Suites with Valerie Ware Temple. They parked the Corvette near the hotel entrance, in plain view of the hotel security camera. Long and Ms. Temple were together in the hotel room when his Corvette was taken from the parking lot. Long learned of the theft the following morning. He notified the hotel management, the police and State Farm that same morning.

5. Martin Long made a claim for the fair market value of his stolen Corvette under State Farm automobile policy 0886-750-01 and the claim number for that claim was 01-6596-564. He made a separate claim for the personal property stolen from the car under a manufactured home policy issued by State Farm bearing policy number 01-CW-7517-0 and the claim number for that claim was 01-Q177-057. Long paid separate premiums for these policies and State Farm accepted these premiums. I understand that this lawsuit concerns only State Farm's denial of Claim No. 01-6596-564.

6. Long submitted an Affidavit of Vehicle Theft in support of his claim for the full market value of the Corvette. He wrote that the amount of his claim was \$25,000.00, the amount that he had paid for the car. State Farm concluded that the actual cash value of the Corvette was \$25,789.50. Thus, if State Farm had paid Mr. Long's claim, it would have been obligated to pay \$25,289.50 (the fair market value less a \$500.00 deductible).

7. The claim file contains no direct proof suggesting that Long was involved in the theft of his 2000 Corvette. Long denies any involvement in the loss of his car. No witness claims to have seen him take his car from the parking lot after he and Ms. Temple went up to their room for the night. The hotel security camera system was inoperable and did not record who took the car or how. Mr. Long discovered that the hotel security video camera system was out of order when he asked the hotel staff to view it. Because Mr. Long was with Ms. Temple in the hotel room from the time they parked the car on the night of February 18 until they discovered the car was gone the next morning, Long lacked the opportunity to move the car.

8. The claim file contains no suggestion of who took the car from the parking lot of the hotel. No arrests were ever made. Neither the police nor State Farm performed any forensic examination to determine who specifically took the car from the hotel parking lot or how.

9. The claims file contains numerous and conflicting references to the keys for the 2000 Chevrolet Corvette. The dealer who sold Martin Long the car told State Farm that he believed only one set of keys came with the car. Long believed he got two sets of keys and told State Farm that the second set of keys may have been inside the car when it was stolen. Valarie Ware Temple told State Farm that Long mentioned to her that a second set of keys may have been inside the car when it was stolen. The hotel manager overheard Long say there were keys inside the car when it was stolen. The car was ransacked after it was stolen and no keys were in it when it was recovered. Mr. Long has not been able to find any other set of keys.

10. The car was not in driveable condition when it was recovered. The brake system on the 2000 Chevrolet Corvette was not functional when the car was recovered. The brake fluid had been drained. The brake master cylinder reservoir was empty. Brake system components were missing or disabled. The instrument cluster on the dash indicated brake system and traction control failures. The brake system problem was verified by Michael Bresnock who noted a brake application allowed the pedal to travel almost to the floor board. Michael Bresnock was not able to verify the traction control system failure. Moreover, Michael Bresnock was unable to move the car out of park when he first inspected the car and expressed his belief that a bent transmission linkage accounted for the inability to shift the car into gear. There were missing lug nuts and loose lug nuts on the wheels of the car. Without functioning brakes, an operable transmission or secure wheels, it is unlikely that the car was being driven.

11. State Farm speculated that the Corvette had to have been driven out of the hotel parking lot by whoever took it and points to Mr. Bresnock's report as support for that speculation. However, Mr. Bresnock's report does not say how the car left the lot. He merely says that whoever last drove the Corvette used a key.

Mr. Bresnock's report does not rule out towing as the means by which the Corvette was stolen from the hotel. Donal O'Shaughnessy, who repossesses cars via towing, explained that there was sufficient room to tow the car from where Long parked it and that contact marks on the undercarriage of the Corvette and the front bumper scratches indicated that the car had been

towed. The claim file contains no indication that State Farm ever considered the possibility that the Corvette was stolen via towing. The testimony of State Farm's claim supervisor that the Corvette could not be seen from the road is contrary to the photographs that plainly show otherwise.

12. Automobile theft is a serious problem in the Atlanta metropolitan area. The Dekalb County Police Department maintains an Auto Theft Unit. Detective Fitzpatrick of that unit provided reports to State Farm pertaining to the theft of Long's car. The first page of the materials he provided contains the following statement: "AUTO THEFT, METRO ATLANTAS FAVORITE GROUP PARTICIPATION SPORT." Given the magnitude of the car theft problem known to exist in the community, to guess that Long was responsible for this theft is not reasonable from a claims handling standpoint given that no one saw what happened.

13. State Farm based its denial of claim number 01-6596-564 on a financial motive but had documentation showing that Long was essentially debt free. Long acted responsibly when he received his personal injury settlement by paying off all of his credit card bills, his wife's car and his wife's student loans. He had a credit score of 651 which is considered fair/good. He receives a disability check each month that is more than adequate to pay his modest living expenses. He owned the Corvette free and clear, so if he wanted money for the car, he could have sold it.

### **Opinions:**

After reviewing the materials listed above, I have formed the following opinions. I hold these opinions to a reasonable degree of certainty. These opinions are based upon my training and experience in the adjustment of insurance claims and my review of the facts of Mr. Long's claims.

1. **State Farm Fire and Casualty Insurance Company owed Martin Long various duties in the handling of the claim he filed under his automobile insurance policy.**

During the claim handling process, every insurer must treat its insured's interest equally with its own, must investigate claims fairly and objectively, and must not deny claims based on speculation and conjecture. State Farm's Auto Claim Manual acknowledges these basic principles and standards:

"STATE FARM'S CLAIM PHILOSOPHY IS TO PAY WHAT WE OWE— promptly, courteously and efficiently. To accomplish this each claim, large or small, should be handled only on its own merits, in accordance with the facts of the law, the law, and applicable coverage—not on the basis of a person's race, age, religion, sex, national origin, or any other irrelevant consideration.

Our commitment to policyholders, claimants, and others with whom we do business, as well as our internal communications, should clearly and consistently demonstrate this claim philosophy. State Farm's claim department has an obligation to its insureds to fairly and promptly investigate and then appropriately negotiate, settle or defend covered claims for damages."

In its statement of "Commitment to Our Policyholders", State Farm says:

"It is the responsibility of the State Farm claims staff to implement Company philosophy with respect to claim handling. Our commitment to our policyholders is to treat them like a good neighbor. We should:

- Listen, be fair, be open, and carry out our part of the bargain under the contract in good faith.
- Be familiar and in compliance with those laws and regulations that impact claims in the appropriate state, and treat policyholders consistent with requirements of the law.
- Explain all relevant coverages under the policy. Encourage policyholders to report all losses and avail themselves of all benefits under their coverages.
- Diligently investigate the claims to determine if a claim is valid. Reasonably evaluate the claim, and act promptly in resolving the claim. If it is necessary to reject a claim for coverage or damages, it should be done promptly and courteously, with an explanation for the decision.
- Make an objective evaluation of the facts and circumstances supporting our policyholders' claims. Doing so helps insure our policyholders obtain all benefits available provided by the insurance policy.
- Give insureds a reasonable opportunity to comply with their responsibilities under the policy. If a claim is rejected, be willing to listen to subsequent input from the insured. Complete any necessary follow-up in a timely fashion, giving due consideration to any additional findings.
- Communicate with and be responsive to inquiries from insureds and their attorneys by promptly answering letters and phone calls.



In addition to our obligation to deal fairly with each policyholder, we also have an obligation to pay only covered claims in the proper amount. Payment of those claims not covered, or fraudulent claims, unnecessarily increases insurance costs for all policyholders.

In summary, we are committed to paying what we owe, promptly, courteously, and efficiently.”

**2. State Farm Fire and Casualty Company committed serious violations of insurance industry standards and best practices in its handling of claim number 01-6596-564.**

Martin Long submitted a claim under the automobile insurance policy that State Farm Fire and Casualty Company sold to him to cover his 2000 Chevrolet Corvette. This automobile insurance policy bears policy number 0886-750-01. The claim number for this claim was 01-6595-564. The claim that Mr. Long submitted under this policy was for the actual value of the car at the time that it was stolen from the hotel parking lot. This policy was in full force and effect on the date of the loss.

State Farm had no reasonably legitimate or arguable reason for refusing to pay Mr. Long’s claim for the loss of his car. State Farm’s speculation that Mr. Long participated in the theft of his car is an insufficient reason to have denied this claim and is not supported by an objective evaluation of the facts and circumstances. No witness claims to have seen Mr. Long remove his car from the parking lot after he and Valerie Ware Temple went up to their room for the night. At the time that State Farm denied this claim, it knew that Valerie Ware Temple confirmed that Mr. Long was with her in the hotel room from the time that they parked the car on the night of the 18<sup>th</sup> until they discovered the car was gone the next morning. An objective assessment of this evidence shows that Mr. Long did not have the opportunity to steal his car. Mr. Long parked his car in plain view of a hotel security camera. Unknown to Mr. Long, the camera was not working at the time of the theft. Mr. Long did not learn that the camera was inoperable at the time of the theft until after he reported the theft to hotel management and asked to view the security camera footage.

Martin Long’s inability to produce a second set of keys for the Corvette was not a reasonably legitimate reason to refuse his claim. At the time that State Farm refused its claim, it knew that the dealer who sold Martin Long the car told State Farm that he believed that only one set of keys came with the car and that any second set of keys may have been in the car at the time that it was stolen and ransacked.

State Farm’s speculation that a second set of keys must have been used to drive the car

from the parking lot is in conflict with other evidence. The brake system on the Corvette was not functional when the car was recovered. All of the brake fluid had been drained and brake system components were missing or disabled. Without functional brakes, it is not likely that the car was being driven. The damage to the front bumper and contact marks on the undercarriage discovered after the car was recovered suggest a likelihood that the car was towed from the hotel parking lot by the thieves.

The State Farm claim file contains no suggestion as to the identity of the person or persons who took the car from the parking lot at the hotel. No arrests have ever been made. The Atlanta metropolitan area is a big city with a well-known auto theft problem. Neither the police nor State Farm undertook to perform forensic analysis of the car after it was recovered in an effort to determine the identity of the thieves. At the time that State Farm denied this claim, it knew that another car had been broken into at the hotel during the same time frame when Mr. Long's car was stolen.

State Farm's handling of claim number 01-6596-564 reflects a predisposition for denying it. State Farm referred Mr. Long's claim to its special investigation unit six days after he reported the car stolen. From the beginning, State Farm's claim file documentation reflects State Farm's suspicion that Mr. Long stole his own car for financial reasons. Not only did its investigation fail to disclose any objective reasonably legitimate reason for concluding that Mr. Long stole his own car, State Farm's investigation failed to establish any objective reasonably legitimate reason for concluding that Mr. Long had a financial motive for stealing his own car. Mr. Long was essentially debt free when his car was stolen. He had paid off his credit card bills, his wife's car and his wife's student loans with the proceeds that he received from the settlement of his on-the-job injury claim. He had a good credit score. He received a monthly disability check that was more than adequate to pay his modest living expenses. He owned the Corvette free and clear and could have sold it easily and quickly. At the end of the day, the facts established by the investigation did not support the theory that Mr. Long had a financial motive for having his car stolen.

Numerous other facts negate State Farm's speculation that Mr. Long was somehow involved in having his car stolen. Mr. Long had spent time and money improving the car from the time he purchased it. In fact, he took his car to Big Ten Tires to have work performed on February 18, 2005, the same day he parked his car in the hotel parking lot before it was stolen.

Without objective evidence of a financial motive, State Farm had no reasonably legitimate or arguable reason for denying his claim on that basis. Likewise, State Farm's investigation does not support that he made a misrepresentation concerning a material fact regarding claim number 01-6596-564. Mr. Long's failure to disclose that he was with Valerie Ware Temple, a married woman, at the time that his car was stolen is not a legitimate reason to deny him insurance coverage for the theft of his car. It is clear that Mr. Long was trying to save his companion from embarrassment. He advised the State Farm claim agent of her presence as soon as the recorder was turned off. State Farm had the opportunity to interview Valerie Ware

Temple two months before denying the claim. State Farm was able to confirm with Ms. Temple that Mr. Long was with her and thus did not have the opportunity to take his car. Denying Mr. Long coverage based on his reluctance to say on a recorded statement that he was with a married woman is an irrelevant consideration which State Farm's own policy manual says should not be a basis for deciding a claim.

State Farm's assertion that Mr. Long misrepresented material facts concerning who called the police on the morning that the theft of the Corvette discovered should certainly not be the basis of denying any claim. The undisputed proof shows that the theft was reported to police on the morning it was discovered. It is ludicrous from a claim handling standpoint to suggest that who placed such a call dictates whether a claim is paid or rejected.

Mr. Long made a valid claim under his automobile insurance policy. State Farm should have paid Mr. Long for the theft of his car. State Farm breached its contract with Mr. Long by not paying him under the automobile insurance policy for the loss of his car. State Farm lacked any objective, reasonably legitimate or arguable reason for refusing to pay the claim under his automobile policy for the loss of his car. State Farm's conduct was in violation of its obligations of good faith and fair dealing with Mr. Long. The reasons cited by State Farm for denying Mr. Long's claim under his automobile insurance policy reflect bad faith on the part of State Farm.

**3. Martin Long made no material misrepresentations in the presentation of claim number 01-6595-564.**

To the extent that State Farm denied Long's automobile claim because of claims he made for personal property under the homeowner's policy, it violated accepted insurance standards, as well as applicable insurance law. Section 27-14-28, Code of Alabama (1975) provides:

No misrepresentation in any proof of loss under any insurance policy shall defeat or void the policy unless such misrepresentation is made with actual intent to deceive as to a matter material to the insured's rights under the policy.

In Long's claim for the fair market value of his Corvette, he made no material misrepresentations affecting State Farm's rights under that policy. The amount that he claimed in his Affidavit of Theft was less than State Farm determined the fair market value of the stolen Corvette to be. Long's representations in a proof of loss for another claim under another policy is not material to his claim for the fair market value of the Corvette. State Farm's handling procedures mandate that "each claim, large or small, should be handled on its own merits." By basing any part of its denial of his automobile claim on representations that he made in the proof of loss for his homeowner's claim, State Farm violated proper insurance practices and standards. Whether Mr. Long added a pair of shoes to his proof of loss for his contents claim under a separate homeowner's policy is simply of no consequence to a proper evaluation of his claim for the fair market value of the Corvette under the automobile policy for which he paid a separate premium.

It is worth noting that many individuals have different insurance carriers for their automobile coverage versus their homeowner's coverage. It would be absurd to suggest that one company could deny coverage for a claim made against it because the insured inflated a claim he made against another insurer under a separate policy. Yet that is essentially just what State Farm seeks to do in this case and it is wrong.

---

ROBERT J. SHARP

Sworn to and subscribed before me this

\_\_\_\_\_ day of May, 2007.

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Notary Public

My Commission Expires: \_\_\_\_\_

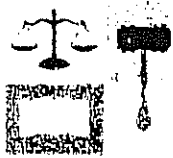


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### *Insurance Consultants/Experts*

**West Coast Office**  
21520 Yorba Linda Blvd, Suite G  
#257  
Yorba Linda, CA 92887  
Business: (213) 407 9957

**East Coast Offices:**  
325 East Paces Ferry Rd suite 1603  
Atlanta, GA 30305  
Phone: 213-407-9957

Email: [rsharp1989@aol.com](mailto:rsharp1989@aol.com)  
Website: [sharpandassociates.org](http://sharpandassociates.org)

### **Curriculum Vitae**

Robert Sharp & Associates provides insurance industry related services including:

Expert witness testimony, Appraisal, Umpire and Mediation services, and Consultation. Provides service nationwide, from West & East Coast offices.

### **Background & Qualifications:**

Mr. Sharp has over 32 years' experience in insurance management and multi-line property and casualty claim handling. Most recently he served as President and CEO of Workmen's Insurance Group, from 1997 - 2004. In addition he also held the positions of Executive Vice President, Senior Vice President and Senior Vice President of Claims. During that time, Workmen's had an operating budget of \$40,000,000. Mr. Sharp had oversight responsibility for over 260 insurance industry employees, 20,000 claim files and 3000 litigated files in 25 different states. He has served as Assistant Vice President/Regional Claim Manager for J.C. Penney Property & Casualty Insurance Company and Vice President of claims for Columbia Insurance Group. He also served as regional property claim manager for Shelter Insurance.

He has a BA Degree in Business from the University of Northern Iowa with an emphasis on business and finance.

As an instructor, he taught courses in:

Shelter Insurance Internal Claim School, classes in policy interpretation, claim investigation and documentation and property estimatics.

Speaker at local claim adjuster association's and seminars in file documentation and investigation in numerous Midwest cities as well as Los Angeles claims association.

Instructor and chairman for Property Loss Research Bureau, national seminars.

Instructor and panelist for International and National Arson Investigators Association.

Chairman of NAMIC's (National Association of Mutual Insurance Company's) claim educational committee. Served as instructor and a panelist. Also developed seminars that were presented throughout the United States for this organization.

Conducted numerous seminars for Midwest mutual insurance companies while working for Columbia Mutual Insurance, which was acting as a reinsurer.

Served on NAII (National Association of Independent Insurers) law review committee and national legislative committee.

**In 32 years of experience**, he has held a myriad of both management and claim-handling positions in the insurance industry which makes him eminently qualified to render expert opinions in regard to all aspects of claim handling including:

- Methods and procedures of claim handling, unfair claim practice issues
- Internal controls, Billing issues, underwriting issues and cancellations
- Clearly defined protocols, Agent and Broker issues
- Complex claim handling issues and practices
- Claim adjusting and coverage issues; including policy cancellations and denials
- Claim community standards and insurance consulting
- Breach of contract
- **Bad faith issues**

## **LITIGATION EXPERIENCE**

In addition to having direct hands-on experience with litigation during his 32-year career in the insurance industry, Mr. Sharp has testified numerous times in insurance related cases in the capacity as an adjuster, as well as in upper level management, in over 25 states and in Federal court. In addition to claim issues he has testified as the most knowledgeable person in regards to insurance company methods and procedures, billing and IT issues.

**Web Site: [sharpandassociates.org](http://sharpandassociates.org)**

## **FEE SCHEDULE:**

**Original retainer fee may be charged in the amount of \$1000.00  
(Credited towards the final invoice)**

Expert Witness:	\$190.00 per hour.
Research:	\$175.00 per hour.
Litigation Consultant:	\$190.00 per hour.
Mediation & Appraisal:	\$150.00 per hour.
Reserve Review and Claim File Audits:	\$150.00per hour.
Expert Witness Designation:	\$250.00 (flat fee)
Deposition Fee & Trial Testimony:	\$250.00 per hour

## **Exhibit 2**

**List of cases I have testified at trial in the last three years.:**

- 1. Barney v. Workmen's Insurance (Reno, Nevada)**
- 2. Patel v. Infinity Insurance Company (Orange County, California)**
- 3. Turner v. Sterling Casualty Insurance (Los Angeles, California)**
- 4. David Brien v. Amica Mutual Insurance Company (Los Angeles, California)**
- 5. Decena v. Pacific Specialty Insurance Company ( Los Angeles, California)**



**Exhibit 1**

Cases I have given trial or deposition testimony in the last 3 years

1. David Brien v. Amica Mutual (Los Angeles, CA)
2. Diane Padillo v. USAA Ins. Co. (Las Vegas, Nevada)
3. Aero Falcons v. American Alternative (Los Angeles, California)
4. Crown Professional v. State Farm (Newport Beach, California)
5. Barney v. Workmens Insurance Co. (Reno Nevada)
6. Explorer v. Brandt (Ventura, California)
7. Professional Claims Services v. AIG (Los Angeles, California)
8. Zurich Insurance v. Drennan (Las Vegas, NV)
9. Sterling Casualty v. Turner (Orange County, California)
10. Patel v. Infinity (Fullerton, California)
11. Sibrian v. Infinity Insurance and Zavala (Los Angeles, California)
12. Putnam Leasing v. Nelson (Orange County, California)
13. Richardson v. Lough (Wheeling, West Virginia)
14. Decena v. Pacific Specialty Insurance Co. ( Los Angeles, CA )

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

MARTIN O. LONG,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. 2:06CV816-MHT
	)	
STATE FARM FIRE AND CASUALTY	)	
COMPANY,	)	
	)	
Defendant.	)	

STATE OF ALABAMA)  
)  
JEFFERSON COUNTY)

**AFFIDAVIT**

Before me, the undersigned for said County and in said State, personally appeared F. Tucker Burge, who is known to me and who, after first being duly sworn, deposes and says:

My name is F. Tucker Burge. I am of the full age of majority. I have knowledge of the facts set forth this affidavit. I am aware that this affidavit may be used in the Martin O. Long v. State Farm Fire and Casualty Company case which is pending in the United States District Court for the Middle District of Alabama, Northern Division, Civil Action No. 2:06CV816-MHT. Pursuant to F.R.C.P. 56(f), I represent to the Court that I am unable to file the signed affidavit of Robert Sharp and the deposition of Donal O'Shaughnessy on May 31, 2007, which is when the Plaintiff's response to the Defendant's Motion for Summary Judgment is due. The executed affidavit of Mr. Sharp is in the mail to the Plaintiff. Plaintiff's counsel understands that the court reporter has not yet transcribed Mr. O'Shaughnessy's deposition despite promises that it would have been sent to him by today. Plaintiff's counsel will submit both of these documents when they arrive.

Dated this 31<sup>st</sup> day of May, 2007.

  
FRANK TUCKER BURGE

Sworn to and subscribed before me

this 31 day of May, 2007.

  
NOTARY PUBLIC

MY COMMISSION EXPIRES: 5/11/2010

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

MARTIN O. LONG,

\*

Plaintiff,

\*

vs.

\*

Case Number: 2:06cv816-MHT

STATE FARM FIRE AND  
CASUALTY COMPANY,

\*

\*

Defendant.

**A N S W E R**

Defendant State Farm Fire and Casualty Company (hereinafter "State Farm")  
answers the Complaint of Plaintiff as follows:

**FIRST DEFENSE**

State Farm answers the Complaint of Plaintiff, paragraph by paragraph, as  
follows:

**NATURE OF THE CASE**

1. Admitted that State Farm issued an automobile insurance policy ("the  
policy") covering the vehicle forming the basis of Plaintiff's lawsuit. State Farm also  
admits that Plaintiff submitted a claim under the policy and that State Farm denied that  
claim. State Farm denies the remaining allegations of this paragraph.

**PARTIES**

2. Admitted.



3. Admitted that State Farm is incorporated under the laws of Illinois and that at the times referred to herein sold or issued insurance policies and that it marketed its products. All allegations not specifically admitted are denied.

4. Admitted.

#### **STATEMENT OF THE FACTS**

State Farm adopts its responses made above.

5. State Farm is without sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph and therefore denies the same.

6. State Farm admits that it issued automobile insurance which included coverage as provided in the policy and that the policy was purchased through Mike Devers Insurance Agency, Inc., in Millbrook, Alabama. As to any allegations not specifically admitted, State Farm is without sufficient knowledge or information to form a belief as to the truth of those allegations and therefore denies the same.

7. State Farm is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph and therefore denies the same.

8. State Farm is without sufficient knowledge or information to form a belief as to the truth of the allegations in this paragraph and therefore denies the same.

9. State Farm admits that the Plaintiff was at the Country Hearth Inn in Lithonia, Georgia, on February 18, 2005. All allegations not specifically admitted are denied.

10. Admitted that Plaintiff reported the loss to State Farm and to the DeKalb County Sheriff's office. Admitted that he told an employee of the Country Hearth Inn

and Suites that his car was missing. All allegations not specifically admitted are denied.

11. State Farm admits that, when the vehicle was recovered by the police, it was damaged. As for the remaining allegations of this paragraph, State Farm is without knowledge or information sufficient to form a belief as to the truth of those allegations and therefore denies the same.

12. State Farm admits that Plaintiff did provide some information and documents and gave statements. All allegations not specifically admitted are denied.

13. Admitted that State Farm denied Plaintiff's claim. All allegations not specifically admitted are denied.

14. Denied.

**FIRST CAUSE OF ACTION - BREACH OF CONTRACT**

15. Denied.

**SECOND CAUSE OF ACTION - BAD FAITH**

16. Denied.

**DAMAGES**

17. Denied.

18. Denied.

19. No response is required to this paragraph.

**SECOND DEFENSE**

State Farm denies that it is guilty of any conduct which would entitle Plaintiff to recover punitive damages.

### **THIRD DEFENSE**

State Farm avers that any award of punitive damages to Plaintiff in this case will violate the constitutional safeguards provided to it under the Constitution of the State of Alabama.

### **FOURTH DEFENSE**

State Farm affirmatively avers that any award of punitive damages to Plaintiff in this case will violate the constitutional safeguards provided to it under the Constitution of the United States of America.

### **FIFTH DEFENSE**

State Farm affirmatively avers that any award of punitive damages to Plaintiff in this case will violate the constitutional safeguards provided to it under the due process clause of the Fourteenth Amendment to the Constitution of the United States.

### **SIXTH DEFENSE**

State Farm avers that any award of punitive damages to Plaintiff in this case will violate the procedural safeguards provided to it under the Sixth Amendment to the Constitution of the United States.

### **SEVENTH DEFENSE**

Plaintiff's claims of punitive damages violate the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments of the Constitution of the United States on the following grounds:

(a) It is a violation of the due process and equal protection clauses of the Fourteenth Amendment of the United States Constitution to impose punitive damages, which are penal in nature, against a civil defendant upon the plaintiff's satisfying a burden of proof which is less than "beyond a reasonable doubt" burden of proof required in criminal cases;

(b) The procedures pursuant to which punitive damages are awarded may result in an award of joint and several judgments against multiple defendants for different alleged acts of wrongdoing, which infringes upon the due process and equal protection clauses of the Fourteenth Amendment of the United States Constitution;

(c) The procedures pursuant to which punitive damages are awarded fail to provide a reasonable limit on the amount of the award against a defendant, which thereby violate the due process clause of the Fourteenth Amendment of the United States Constitution;

(d) The procedures pursuant to which punitive damages are awarded fail to provide specific standards for the amount of the award of punitive damages which thereby violate the Due Process Clause of the Fourteenth Amendment of the United States Constitution;

(e) The procedures pursuant to which punitive damages are awarded result in the imposition of different penalties for the same or similar acts and, thus, violate the equal protection clause of the Fourteenth Amendment of the United States Constitution;

(f) The procedures pursuant to which punitive damages are awarded permit the imposition of punitive damages in excess of the maximum criminal fine for the same or similar conduct, which thereby infringes upon the due process clause of the Fifth and Fourteenth Amendments and the equal protection clause of the Fourteenth Amendment of the United States Constitution.

#### **EIGHTH DEFENSE**

Plaintiff's claims of punitive damages violates the due process clause of Article I, § 6 of the Constitution of Alabama for the same grounds as stated above.

#### **NINTH DEFENSE**

Any award of punitive damages to Plaintiff in this action would constitute a deprivation of property without due process of law required under the Fifth and Fourteenth Amendments of the United States Constitution.

#### **TENTH DEFENSE**

Any award of punitive damages against State Farm in this action would violate the prohibition against laws that impair the obligations of contracts in violation of Article 1, § 22 of the Constitution of Alabama.

#### **ELEVENTH DEFENSE**

The Complaint fails to state a claim for punitive damages under §§ 6-11-20 to 6-11-30, Code of Alabama, 1975, and is barred.

#### **TWELFTH DEFENSE**

Any award of punitive damages against State Farm in this action would violate the due process clause of the United States Constitution, in accordance with the decisions of



the United States Supreme Court in BMW of North America v. Gore, 517 U.S. 559, 116 S. Ct. 1589, 134 L. Ed. 2d 809 (1996), Coopers Industries, Inc. v. Leatherman Tool Group, Inc., 532 U.S. 424, 121 S. Ct. 1678 (2001), and State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 123 S. Ct. 1513, 155 L. Ed. 2d 585 (2003), and the Alabama Supreme Court in BMW v. Gore, 701 So.2d 507 (Ala. 1997) on various grounds including the following:

(a) It is a violation of this Defendant's rights to due process to impose punitive damages to deter future misconduct, where less drastic remedies could achieve this goal;

(b) It is a violation of due process to subject this Defendant to punitive damages without providing this Defendant fair notice of the conduct that will subject it to punishment and the severity of the penalty that may be imposed;

(c) It is a violation of due process to punish this Defendant with the intent of changing its lawful conduct in other states; and

(d) It is a violation of this Defendant's rights to due process to impose punitive damages which are grossly excessive.

#### **THIRTEENTH DEFENSE**

Punitive damages are to be limited or in the alternative not allowed under Code of Alabama § 6-11-21 (1975).

#### **FOURTEENTH DEFENSE**

State Farm avers that there exists a lawful basis upon which to refuse payment of the claim submitted by Plaintiff.

**FIFTEENTH DEFENSE**

State Farm avers there was no absence of a legitimate or arguable reason for the denial of benefits claimed under the policy by Plaintiff.

**SIXTEENTH DEFENSE**

State Farm avers that Plaintiff's policy of insurance is the best evidence of its contents and is pled herein as though copied herein in its entirety. State Farm specifically denies any allegations which tend to contradict, contravene or enlarge upon the terms, conditions, exclusions or limitations of said policy.

**SEVENTEENTH DEFENSE**

State Farm affirmatively pleads all conditions precedent, conditions subsequent, exclusions and limitations set forth in the policy and coverage as a defense to the Plaintiff's claims.

**EIGHTEENTH DEFENSE**

State Farm pleads the defense of misrepresentation pursuant to § 27-14-28, Code of Alabama, 1975. Under Plaintiff's automobile insurance policy, there is no coverage if an insured makes a false statement with the intent to conceal or misrepresent any material fact or circumstance in connection with any claim under the policy. State Farm contends that Plaintiff concealed and misrepresented his involvement with the loss claimed under the policy.

s/ James B. Newman  
\_\_\_\_\_  
JAMES B. NEWMAN (NEWMJ8049)

Attorney for Defendant State Farm Fire  
and Casualty Company

OF COUNSEL:  
HELMSING, LEACH, HERLONG,  
NEWMAN & ROUSE  
POST OFFICE BOX 2767  
MOBILE, ALABAMA 36652  
(251) 432-5521  
Facsimile: (251) 432-0633  
Email: [jbn@helmsinglaw.com](mailto:jbn@helmsinglaw.com)

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

F. Tucker Burge  
Burge & Burge  
2001 Park Place North, Suite 850  
Birmingham, Alabama 35203

this 15<sup>th</sup> day of September, 2006.

\_\_\_\_\_  
s/James B. Newman  
OF COUNSEL

June 29, 2005

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**  
**PERSONAL AND CONFIDENTIAL**

Attorney F. Tucker Burge  
Burge & Burge  
850 Park Pl Tower  
Birmingham, AL 35203

RE: Claim Number: 01-6596-564  
Policy Number: 0886-750-01  
Vehicle: 2000 Chevrolet Corvette  
VIN: 1G1YY22G9Y5132554

Dear Mr. Burge:

This letter is being sent to you as legal representative of Martin Long.

State Farm Fire and Casualty Company has made a comprehensive investigation into the reported incident of February 19, 2005, involving the above mentioned vehicle and policy.

Based on the investigation, we must advise you a "loss" as defined in the policy has not occurred as the destruction of the insured vehicle was by or at the direction of an insured. We must additionally advise you that our investigation has established that your client misrepresented material facts in the presentation of his claim. Because of these findings, we will be unable to make any payments under the policy.

By providing the above information, State Farm Fire and Casualty Company does not waive any of its rights, but rather, specifically reserves its rights to deny coverage and defend any action based on all information now known or which may become known to State Farm.

Sincerely,

Tony D. Nix, CPCU, CIFI  
Team Manager  
State Farm Fire and Casualty Company

TN/pg

bcc: Attorney Angela Taylor/Mike Beers  
Todd Smith

Long/State Farm  
SF1 00132



NORTHERN DIVISION

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2:06CV816-MHT

RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS

- denied said claim:

- a. State each and every fact upon which you rely in support of said allegation; identify each and every document upon which you rely in support of said allegation, and identify by name, home address, business address, place of employment and job title, each and every person having knowledge or information upon which you rely in giving your answers to this interrogatory and state the knowledge or information each person has.
- b. Please produce any and all documents relating to the information requested in this interrogatory.



**ANSWER:**

On the first page of its Answer, Defendant State Farm admits that it issued an automobile policy covering the Plaintiff's car, that the Plaintiff submitted a claim under the policy and that Defendant State Farm denied the claim.

2. You have alleged in your Complaint that you "enhanced" your insured vehicle (2000 Chevrolet Corvette):

- a. State each and every fact upon which you rely in support of said allegation; identify each and every document upon which you rely in support of said allegation, and identify by name, home address, business address, place of employment and job title, each and every person having knowledge or information upon which you rely in giving your answers to this interrogatory and state the knowledge or information each person has.
- b. Please produce any and all documents relating to the information requested in this interrogatory.

**ANSWER:**

The Plaintiff enhanced his car from the time he bought it until it was stolen in the following ways: replacing all tire rims, replacing all tires, aligning the wheels, replacing a tie rod, adding a Corvette logo accessory and ordering louvers for the tail lights. The Plaintiff, the employees at Big Ten Tire in Prattville, the employees where he bought the rims in Birmingham, Donald Long, Victor Long and Walter Crosby may have knowledge or information about these enhancements. The receipts for the \$1,572.14 the Plaintiff paid to Big Ten Tire are attached.

3. You have alleged in your Complaint that, on or about February 2005, you took a trip to Georgia and stayed at the Country Hearth Inn, where you parked your car under some lights and in view of security cameras:

- a. State each and every fact upon which you rely in support of said allegation; identify each and every document upon which you rely in support of said allegation, and identify by name, home address, business address, place of employment and job title, each and every person having knowledge or information upon which you rely in giving your answers to this interrogatory and state the knowledge or information each person has.
- b. Please produce any documents relating to the information requested in this interrogatory.

**ANSWER:**

Plaintiff has firsthand, personal knowledge that he traveled in his Corvette to the Country Hearth Inn in Lithonia, Georgia, and parked under some lights and in view of security cameras. Valerie Ware Temple was with Plaintiff on this trip and saw where he parked the car before it was stolen. Ricky Rhodes, Sandy Ware and Felicia Flowers saw where Plaintiff parked the Corvette before it was stolen. Plaintiff is sure the Country Hearth Inn has a record that he stayed at the hotel and reported his car stolen.

4. You have alleged in your Complaint that your insured vehicle was stolen:
  - a. State each and every fact upon which you rely in support of said allegation; identify each and every document upon which you rely

in support of said allegation, and identify by name, home address, business address, place of employment and job title, each and every person having knowledge or information upon which you rely in giving your answers to this interrogatory and state the knowledge or information each person has.

- b. Please produce any documents relating to the information requested in this interrogatory.

**ANSWER:**

The Plaintiff knows that he left his car in the hotel parking lot, that the car was not there the next morning, that he did not give anyone permission to take his car and that he has no idea who took his car without his knowledge or permission; in short, he knows that his car was stolen. Valerie Ware Temple knows that the Plaintiff left his car in the hotel parking lot, that the car was not there the next morning, that the Plaintiff did not leave the hotel room between the time he entered it immediately after parking the car and when they learned that it was gone, that the Plaintiff was upset when he learned that his car was stolen and that he immediately reported the theft to the hotel, the police and his insurance. Ricky Rhodes, Sandy Ware and Felicia Flowers know that the Plaintiff left the car in the hotel parking lot, that the car was missing the next day, that the Plaintiff was upset to learn that his car had been stolen and that he immediately reported the theft to the hotel, the police and his insurance. The hotel staff, police and Defendant State Farm know that the Plaintiff reported the theft of his car. The police reports and insurance claim information relating to this stolen car are already in the possession of the Defendant.

5. You have alleged in your Complaint that, when your insured vehicle was

recovered, it was severely damaged and that your personal items that had been in the car were missing:

- a. State each and every fact upon which you rely in support of said allegation; identify each and every document upon which you rely in support of said allegation, and identify by name, home address, business address, place of employment and job title, each and every person having knowledge or information upon which you rely in giving your answers to this interrogatory and state the knowledge or information each person has.
- b. Please produce any documents relating to the information requested in this interrogatory.

**ANSWER:**

The Plaintiff's car was in excellent condition and in perfect working order when he left it in the hotel parking lot. When the police finally recovered the Plaintiff's car it had been stripped. The seats were gone. The top was gone. The passenger window was broken. The ignition cylinder and steering column were damaged. Parts of the dash and console had been removed. Air conditioner vents were broken. The brake fluid had been drained and brake system components were missing or disabled. The front bumper area was damaged. The interior was rain-damaged. The Plaintiff's personal items were gone.

The Plaintiff, General Long, Walter Crosby, David Carrera, the police who found the stolen car, the storage facility personnel, Todd Smith and others saw that the Plaintiff's car had been stripped and damaged.

The Defendant's claim file contains a number of references to the damaged condition of the Plaintiff's car after it was recovered.

6. You have alleged in your Complaint that State Farm "delayed and delayed" its decision on your claim and did not interview all of the available witnesses to the alleged theft:

- a. State each and every fact upon which you rely in support of said allegation; identify each and every document upon which you rely in support of said allegation, and identify by name, home address, business address, place of employment and job title, each and every person having knowledge or information upon which you rely in giving your answers to this interrogatory and state the knowledge or information each person has.
- b. Please produce any documents relating to the information requested in this interrogatory.

**ANSWER:**

The Plaintiff reported the theft of his car to Defendant State Farm on February 19, 2005, soon after he found that his car had been stolen. The Defendant knew of the severe damage to the car by February 28, 2005. The Defendant had the Plaintiff's statements, outline of claimed loss and financial information by March 31, 2005. The Defendant had Valerie Ware-Temple's statement by April 18, 2005. In his letter to Ms. Ware-Temple on that date, State Farm claim representative Todd Smith acknowledges that he had been advised that a second set of keys may have been in the vehicle, that Felicia Flowers discovered that the car was missing and that there was broken glass where the Plaintiff had parked the car, and that the Plaintiff had personal items



in the car. The Defendant's activity log reflects no attempt to speak to any witness to the theft between April 19, 2005, and June 16, 2005. The Defendant never did interview Felicia Flowers or Sandy Ware. The Defendant's activity reflects no attempt was ever made to contact Ms. Flowers only mentions trying to contact Sandy Ware on June 16, 2005. The Defendant's claim file contains no itemization of damage to the Plaintiff's car which sets forth the costs of repair, the anticipated labor costs or the salvage value. Defendant State Farm did not issue a decision on the claim until June 29, 2005. In a letter dated June 29, 2005, State Farm team manager Tony Nix stated that the Defendant was denying the claim after a "comprehensive" investigation based on its determination that "the destruction of the insured vehicle was by or at the direction of an insured" and that the Plaintiff "misrepresented material facts in the presentation of his claim." Despite a request to specifically state the material misrepresentations it alleged in its letter, the Defendant never did so.

7. You have alleged in your Complaint that you do not know who stole your car, who damaged your car, or who stole the contents of your car:

- a. State each and every fact upon which you rely in support of said allegation; identify each and every document upon which you rely in support of said allegation, and identify by name, home address, business address, place of employment and job title, each and every person having knowledge or information upon which you rely in giving your answers to this interrogatory and state the knowledge or information each person has.
- b. Please produce any documents relating to the information requested in this

interrogatory.

**ANSWER:**

The Plaintiff does not know who stole his car, damaged his car and stole the contents. Valerie Ware-Temple knows that the Plaintiff did not leave the room between parking the car and finding out that it had been stolen.

8. You have alleged in your Complaint that State Farm's representatives falsely accused you of criminal conduct:

- a. State each and every fact upon which you rely in support of said allegation; identify each and every document upon which you rely in support of said allegation, and identify by name, home address, business address, place of employment and job title, each and every person having knowledge or information upon which you rely in giving your answers to this interrogatory and state the knowledge or information each person has.
- b. Please produce any documents relating to the information requested in this interrogatory.

**ANSWER:**

In a letter on State Farm stationery that is dated June 29, 2005, State Farm team manager Tony Nix stated that "the destruction of the insured vehicle was by or at the direction of the insured." That statement is an absolute lie. The Plaintiff neither destroyed his car nor directed others to do so. The Plaintiff has no idea who stole and stripped his car. The Defendant's false assertion labels the Plaintiff as a thief, a criminal conspirator and a defrauder when in reality he is

the victim of a crime.

9. You have alleged in your Complaint that State Farm breached a valid insurance contract:

- a. State each and every fact upon which you rely in support of said allegation; identify each and every document upon which you rely in support of said allegation, and identify by name, home address, business address, place of employment and job title, each and every person having knowledge or information upon which you rely in giving your answers to this interrogatory and state the knowledge or information each person has.
- b. Please produce any documents relating to the information requested in this interrogatory.

**ANSWER:**

In its Answer, Defendant State Farm admits that it issued an automobile insurance policy that covered the Plaintiff's car and that the Plaintiff purchased this policy through Mike Devers Insurance Agency in Millbrook. The Defendant admits that the Plaintiff submitted a claim under the policy which it denied.

The theft and destruction of the Plaintiff's car by unknown criminals was a loss covered by the insurance contract. The Plaintiff lived up to his end of the insurance contract by paying the premiums charged by Defendant State Farm. When it accepted the Plaintiff's premium payment and issued the policy, the Defendant State Farm promised to pay for the Plaintiff's car if it was stolen or damaged. The Defendant State Farm has breached the insurance contract by

refusing to honor and pay this valid claim.

10. You have alleged in your Complaint that State Farm violated a duty of good faith and fair dealing:

- a. State each and every fact upon which you rely in support of said allegation; identify each and every document upon which you rely in support of said allegation, and identify by name, home address, business address, place of employment and job title, each and every person having knowledge or information upon which you rely in giving your answers to this interrogatory and state the knowledge or information each person has.
- b. Please produce any documents relating to the information requested in this interrogatory.

**ANSWER:**

Every policy of insurance contains a duty implied by law of good faith and fair dealing. This duty requires that insurance companies not interfere with their insured's rights to receive the benefits of the policy.

In this case, Defendant State Farm breached its duty of good faith and fair dealing to the Plaintiff. It did not properly investigate this claim. The results of its claim were not subjected to a reasoned and informed evaluation and review before the claim was denied. It did not treat the Plaintiff's interests with equal regard as its own interests. It treated the claims process with the Plaintiff as adversarial and competitive in nature. It did not fully, fairly and promptly evaluate and adjust the claim. It denied the claim based upon insufficient information, speculation and a

biased, one-sided outlook. Throughout the claims process, it exhibited a reckless indifference to the facts. In denying the claim, it did not give a written explanation pointing to facts, despite being requested to do so.

Defendant State Farm's claim file reflects that the Defendant entered the process of adjusting this claim with a biased, one-sided view toward denying the claim and that it systematically ignored facts that the Plaintiff's claim was valid and due to be paid. The Plaintiff reported his loss to the Defendant on February 19, 2005, and the Defendant referred the claim to its Special Investigation Unit six days later. The Special Investigation Unit is where claims are sent that the Defendant believes are fraudulent. The Defendant did not interview the Plaintiff concerning what happened in any detail before referring his claim to its "claim denial for fraud" unit nor had it examined the car. The Property Loss Preliminary Report created on March 4, 2005, proves the Defendant had already assumed a position adverse to the Plaintiff's claim based on its speculations that he participated in the theft of his car. The Defendant's preliminary report lists nine reasons/indicators for referring the Plaintiff's claim to its "special claim denial for fraud unit." None of the listed reasons/indicators concern an eyewitness claiming to know that the Plaintiff stole or arranged the theft of his car. One of the listed reasons says that the Plaintiff delayed reporting the theft to the police, yet the police incident report and the Defendant's own claim activity log confirm that the Plaintiff reported the theft the morning that he discovered that his car was gone. Another listed reason is that the Plaintiff "was unable to provide all of the keys to his vehicle." However, the Defendant's claim file shows that the claim had been referred to its claim denial for fraud unit before it asked the Plaintiff for keys. Moreover, on the subject of keys, the Defendant knew within the first month after receiving the claim that the dealership



recalled the Plaintiff was given just one key to the vehicle and that any second set of keys that might have existed may have been in the car at the time it was stolen, stripped and ransacked. Other facts listed as reasons for referring this claim to the deny for fraud unit is that the Plaintiff is disabled from the Army, the car was recently purchased, the Plaintiff recently settled a lawsuit for an on-the-job injury, the Plaintiff was divorcing from his wife, the Plaintiff had a prior claim involving his car being shot, the Plaintiff had expensive personal items in the car when it was stolen and he was "unemployed." The policy does not mention any of these factors as legitimate reasons paying a claim if the insured car is stolen, and the Defendant did not mention that such factors might be considered to deny him coverage if his car was stolen when it accepted the Plaintiff's premium payment. Suggesting that the Plaintiff is a person prone to lying, cheating and committing insurance fraud because he is a disabled veteran, a crime victim, divorcing, etc., is sheer stereotyping and not a legitimate excuse to deny coverage.

The Defendant State Farm slanted and directed its processing to deny this claim. For example, the Defendant claims to "know" that the insured "is unable to explain [the] whereabouts" of a second set of keys to the stolen car. In fact, the Defendant knew: (1) the dealer believed that the Plaintiff only got one set of keys to the car; (2) the Plaintiff told the adjuster that a second set of keys may have been inside the car when it was stolen; (3) the hotel clerk heard the Plaintiff mention having keys in the car; and (4) Valerie Ware-Temple told the adjuster that the Plaintiff mentioned to her that a second set of keys may have been in the car when it was stolen. That the Plaintiff does not know the whereabouts of such keys now is hardly surprising; he has no idea who stole his car, the seats, the tops or other contents.

The Defendant claims that the Plaintiff had a financial motive to conspire to have his car

stolen and destroyed, yet he could have gotten more money faster by just selling the car. Also, the Plaintiff was not in financial distress. He received a disability check each month that more than covered his modest living expenses, the prospects for an increased disability award were good, he had paid off most of his debts with the proceeds of his on-the-job injury settlement, he had satisfied his financial commitments relating to the divorce agreement and he owned the car free and clear.

Defendant State Farm refused to believe or neglected to develop facts supporting the validity of the Plaintiff's claim. These facts included the following: the Plaintiff had a longstanding desire to purchase a car like the one that he bought from City Auto Sales on February 4, 2005; he spent hours searching for just the right one; he was proud of his car; he enjoyed driving the car and showing it to his friends; he had no remorse, regrets or second-thoughts after buying the car; he enjoyed enhancing the car and adding to its value; he had never offered to sell the car; he had no desire to sell the car; he was financially solvent and his income exceeded his bills; he parked the car where he thought it would be safe; he went into his hotel room after parking the car and did not leave the room until learning that his car was missing; there was broken glass on the ground at the place where the car had been; he was visibly upset that his car was missing; he asked the hotel clerk if he saw what happened to his car; he asked if the hotel security cameras could be accessed to find out what happened to his car; he reported the theft to the police; he reported the theft to the Defendant; he has never been accused of or convicted of theft, criminal conspiracy or fraud; and, he was understandably upset when the Defendant State Farm labeled him a thief, criminal conspirator and defrauder. By ignoring and neglecting to develop these facts and others, Defendant State Farm acted in reckless indifference

in denying the Plaintiff's claim and labeling him a thief.

Defendant State Farm denied the Plaintiff's claim without a single witness stating that they saw him take the car from the parking lot, that he was present when the car was taken from the parking lot or that he was heard arranging the theft. The Defendant's claim file contains no mention of any efforts to obtain fingerprints or other evidence from inside the car to try to identify who was responsible. The Defendant's claim file contains no mention of the volume of other automobile thefts in the area. The Defendant ignored the hotel clerk's report that another car was broken into the week after the Plaintiff's was stolen and that he told the police that there was a serious problem so that more patrolling at night was needed.

The Defendant did not deal with the Plaintiff's claim in good faith from the outset. It sent the claim for fraud unit review before discussing the claims with the Plaintiff. It treated the Plaintiff's reluctance to involve his companion for the weekend as proof that he stole his car when in fact her evidence showed that he could not have. It claimed he was in financial trouble when he was solvent and debt free. It disregarded all facts favorable to the Plaintiff in favor of speculation that he was a thief and a cheat. It led him to believe that it was actively working to resolve his claim when all it was doing was going through motions before denying the case. It never advised the Plaintiff that his claim had been red-flagged and referred to the unit that denies claims it chooses to call fraudulent. It did not even remotely treat the Plaintiff's interest with equal regard to its own.

11. You have alleged in your complaint that State Farm had no reasonably legitimate, arguable or debatable reason for its denial of the claim:

a. State each and every fact upon which you rely in support of said

allegation; identify each and every document upon which you rely in support of said allegation, and identify by name, home address, business address, place of employment and job title, each and every person having knowledge or information upon which you rely in giving your answers to this interrogatory and state the knowledge or information each person has.

- b. Please produce any documents relating to the information requested in this interrogatory.

**ANSWER:**

See response to Interrogatory 10.

12. You have alleged in your complaint that State Farm intentionally failed to determine whether there was a reasonably legitimate, arguable or debatable reason to pay the claim:

- a. State each and every fact upon which you rely in support of said allegation; identify each and every document upon which you rely in support of said allegation, and identify by name, home address, business address, place of employment and job title, each and every person having knowledge or information upon which you rely in giving your answers to this interrogatory and state the knowledge or information each person has.
- b. Please produce any documents relating to the information requested in this interrogatory.

**ANSWER:**

See response to interrogatory 10.

13. You have alleged in you Complaint that State Farm failed to properly investigate the claim, that its investigation was unduly biased, and that the results of the investigation were not subjected to a reasoned and informed evaluation and review:

- a. State each and every fact upon which you rely in support of said allegation; identify each and every document upon which you rely in support of said allegation, and identify by name, home address, business address, place of employment and job title, each and every person having knowledge or information upon which you rely in giving your answers to this interrogatory and state the knowledge or information each person has.
- b. Please produce any documents relating to the information requested in this interrogatory.

**ANSWER:**

See response to interrogatory 10.

14. Please describe in detail the type and dollar amount of damages you allege that you are entitled to in this action.

- a. State each and every fact upon which you rely in support of said allegation; identify each and every document upon which you rely in support of said allegation, and identify by name, home address, business address, place of employment and job title, each and every



person having knowledge or information upon which you rely in giving your answers to this interrogatory and state the knowledge or information each person has.

- b. Please produce any documents relating to the information requested in this interrogatory.

ANSWER:

Automobile damage and loss: \$27,500.00 to \$30,000.00

Stolen personal items: \$5,000.00

Travel expenses: \$400.00

Loss of use of car: \$8,500.00 to \$12,000.00

Mental and emotional distress: \$100,000.00 to \$200,000.00

Punitive damages: \$500,000.00 to \$800,000.00

15. Have any photographs been taken of you, the scene of the incident referred to in the Complaint, or the vehicle involved in the incident referred to in the Complaint? If so, for each such photograph, respectively, state the name, address and occupation of the photographer; the name and address of each person who was present when the photograph was taken; the name and address of the person who suggested, ordered or authorized that such photograph(s) be taken; the date and place where each such photograph was taken; and the name and address of each person who has custody, possession or control of a copy, negative or original of each such photograph.

- a. Please produce any such copy, negative or original photograph to your answers to these interrogatories for inspection and reproduction. Said copy, negative or original

photograph will be returned to you forthwith.

**ANSWER:**

None at this time.

16. Have you ever been convicted of a crime, whether felony or misdemeanor? If so, state the exact charge for which you were convicted and when you were convicted.

**ANSWER:**

None other than traffic tickets.

17. State the name and address of each person you may expect to call as an expert witness at the trial of this matter and further state the subject matter on which each such expert is expected to testify.

**ANSWER:**

Plaintiff will identify his expert witnesses in accordance with the Court's Scheduling Order.

18. State whether you had consumed any alcohol or drugs of any kind during the (24) hour period immediately prior to the alleged theft; if so, state the type of drug you consumed, the quantity consumed and when and where same were twenty-four alcohol or consumed.

**ANSWER:**

No.

19. Produce all documents and any other tangible items which would tend to prove, disprove or relate to any of the allegations in your Complaint not specifically requested above.

**RESPONSE:**

The Defendant State Farm has copies of all of the documents that the Plaintiff has

relating to his purchase of the car, financial condition, divorce and so forth because he gave them to its representatives months before it declined his claim. A copy of the Defendant's certification of the Plaintiff's policy is attached. A U-haul bill to retrieve the damaged car is attached.

Martin O' Long  
MARTIN O. LONG

Sworn to and subscribed before me this

14<sup>th</sup> day of February, 2007.

Robert Neal Duncan  
Notary Public

My Commission Expires: 10-03-10

**OF COUNSEL:**

BURGE & BURGE  
850 Park Place Tower  
2001 Park Place North  
Birmingham, AL 35203  
(205)251-9000

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 20<sup>th</sup> day of February, 2007, served a copy of the above and foregoing upon all counsel of record by placing a copy of same in the United States Mail, postage pre-paid and properly addressed to: James B. Newman, Helmsing, Leach, Herlong, Newman & Rouse, Post Office Box 2767, Mobile, AL 36652.

Robert Neal Duncan  
OF COUNSEL